

# HOUSE JOURNAL

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EIGHTY-EIGHTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

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SEVENTY-THIRD DAY — SATURDAY, MAY 27, 2023

The house met at 1:03 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 2190).

Present — Mr. Speaker(C); Allen; Allison; Anchía; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bernal; Bhojani; Bonnen; Bowers; Bryant; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Campos; Canales; Capriglione; Clardy; Cole; Collier; Cook; Cortez; Craddick; Cunningham; Darby; Davis; Dean; DeAyala; Dorazio; Dutton; Flores; Frank; Frazier; Gámez; García; Gates; Gerdes; Geren; Gervin-Hawkins; Goldman; González, J.; González, M.; Goodwin; Guerra; Guillen; Harless; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Hull; Hunter; Isaac; Jetton; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; Jones, V.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lalani; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lopez, R.; Lozano; Lujan; Manuel; Martinez; Martinez Fischer; Metcalf; Meyer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Noble; Oliverson; Ordaz; Orr; Ortega; Patterson; Paul; Perez; Plesa; Price; Ramos; Raney; Raymond; Reynolds; Rogers; Romero; Rose; Rosenthal; Schaefer; Schatzline; Schofield; Shaheen; Sherman; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Talarico; Tepper; Thierry; Thimesch; Thompson, E.; Thompson, S.; Tinderholt; Toth; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Zwiener.

The invocation was offered by the Reverend Jakob N. Hurlimann, chaplain, as follows:

God, you who have imprinted yourself on all you have made, hear the prayers and desires of all gathered in this chamber today. Grant them prudence in their decisions, attentiveness in their work, and charity and justice toward all. Today, this hour, this moment, is your gift to us. May we give thanks to you always and in all our words and actions, glorify you. We ask this through Christ our Lord. Amen.

The chair recognized Representative Gerdes who led the house in the pledges of allegiance to the United States and Texas flags.

## REMARKS - MOTION IN WRITING

REPRESENTATIVE MURR: The motion sets forth time parameters, including the opportunity to ask questions.

### MOTION IN WRITING

Representative Murr offered the following motion in writing:

Mr. Speaker:

I move to adopt the following to govern floor debate for **HR 2377**:

SECTION 1. TIME LIMIT ON DEBATE. Debate on the resolution shall not exceed four hours.

SECTION 2. OPENING DEBATE. (a) The opening debate on the resolution shall not exceed 100 minutes and shall be distributed evenly divided between the proponents and the opponents of the resolution.

(b) The first 50 minutes of the opening debate period shall be allocated to the joint authors of the resolution, during which any points of order may only be submitted in writing to the speaker. The first 30 minutes of this period shall be reserved for opening statements, without interruption, by the joint authors of the resolution. The next 20 minutes of this period shall be reserved for the joint authors of the resolution to respond to questions from members.

(c) The second 50 minutes of the opening debate shall be allocated to the opponents of the resolution, during which any points of order may only be submitted in writing to the speaker. The first 30 minutes of this period shall be reserved for opening statements, without interruption, by the opponents of the resolution. The next 20 minutes of this period shall be reserved for the opponents of the resolution to respond to questions from members. Any points of order during the opening debate period may only be submitted in writing to the chair.

SECTION 3. GENERAL DEBATE. (a) At the conclusion of the opening debate period provided for in SECTION 2, two hours shall be reserved for general debate, including questions from members, to be evenly divided between proponents and opponents of the resolution.

SECTION 4. CLOSING STATEMENTS. (a) At the conclusion of the general debate period provided for in SECTION 3, 20 minutes shall be reserved for closing statements, to be evenly divided between proponents and opponents of the resolution.

(b) The first 10 minutes of the closing statement period shall be allocated to the opponents of the resolution to make closing statements, without interruption.

(c) The second 10 minutes of the closing statement period shall be allocated to the proponents of the resolution to make closing statements, without interruption.

SECTION 5. ADOPTION. At the conclusion of the closing statements, the speaker shall immediately put the question on the adoption of the resolution by record vote.

Murr

The motion was read and prevailed.

### IMPEACHMENT RESOLUTION

The Honorable Dade Phelan, speaker of the Texas House of Representatives, announced that the next order of business would be the privileged resolution **HR 2377** speaking as follows:

Members, before our debate begins the chair will make a statement about decorum expected in the chamber.

As a reminder, today's debate is governed by our usual debate rules with one very narrow exception to the general rules against engaging in personalities. During debate, members may make references to the state officer's personal conduct. Members may not make remarks that are generally abusive towards the officer. Members may not make remarks that constitute personalities with respect to members of the Committee on General Investigating or other members whose conduct is not the subject of the resolution. The chair expects each member will cooperate in maintaining a level of decorum that preserves the dignity of the house and its proceedings. As always, the gallery must refrain from any expression of approval or disapproval of today's proceedings.

The Honorable Andrew Murr called up the resolution, speaking as follows:

I call up the privileged resolution **HR 2377**, impeaching Warren Kenneth Paxton, Attorney General for the State of Texas and preferring articles of impeachment against him.

### HR 2377 - ADOPTED

(by Murr, A. Johnson, Geren, Longoria, and Spiller)

The following privileged resolution was laid before the house and read:

### HR 2377

BE IT RESOLVED by the House of Representatives of the State of Texas, That Warren Kenneth Paxton Jr., Attorney General of the State of Texas, is impeached and that the following articles of impeachment be exhibited to the Texas Senate:

### ARTICLES OF IMPEACHMENT

Exhibited by the House of Representatives of the State of Texas in the name of itself and of all the people of the State of Texas against Warren Kenneth Paxton, Attorney General of the State of Texas, in maintenance and support of its impeachment against him.

## ARTICLE I

(Disregard of Official Duty-  
Protection of Charitable Organization)

While holding office as attorney general, Warren Kenneth Paxton violated the duties of his office by failing to act as public protector of charitable organizations as required by Chapter 123, Property Code.

Specifically, Paxton caused employees of his office to intervene in a lawsuit brought by the Roy F. & JoAnn Cole Mitte Foundation against several corporate entities controlled by Nate Paul. Paxton harmed the Mitte Foundation in an effort to benefit Paul.

## ARTICLE II

## (Disregard of Official Duty-Abuse of the Opinion Process)

While holding office as attorney general, Warren Kenneth Paxton misused his official power to issue written legal opinions under Subchapter C, Chapter 402, Government Code.

Specifically, Paxton caused employees of his office to prepare an opinion in an attempt to avoid the impending foreclosure sales of properties belonging to Nate Paul or business entities controlled by Paul. Paxton concealed his actions by soliciting the chair of a senate committee to serve as straw requestor. Furthermore, Paxton directed employees of his office to reverse their legal conclusion for the benefit of Paul.

## ARTICLE III

## (Disregard of Official Duty-Abuse of the Open Records Process)

While holding office as attorney general, Warren Kenneth Paxton misused his official power to administer the public information law (Chapter 552, Government Code).

Specifically, Paxton directed employees of his office to act contrary to law by refusing to render a proper decision relating to a public information request for records held by the Department of Public Safety and by issuing a decision involving another public information request that was contrary to law and applicable legal precedent.

## ARTICLE IV

## (Disregard of Official Duty-Misuse of Official Information)

While holding office as attorney general, Warren Kenneth Paxton misused his official power to administer the public information law (Chapter 552, Government Code).

Specifically, Paxton improperly obtained access to information held by his office that had not been publicly disclosed for the purpose of providing the information to the benefit of Nate Paul.

## ARTICLE V

## (Disregard of Official Duty-Engagement of Cammack)

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by violating the laws governing the appointment of prosecuting attorneys pro tem.

Specifically, Paxton engaged Brandon Cammack, a licensed attorney, to conduct an investigation into a baseless complaint, during which Cammack issued more than 30 grand jury subpoenas, in an effort to benefit Nate Paul or Paul's business entities.

## ARTICLE VI

## (Disregard of Official Duty-Termination of Whistleblowers)

While holding office as attorney general, Warren Kenneth Paxton violated the duties of his office by terminating and taking adverse personnel action against employees of his office in violation of this state's whistleblower law (Chapter 554, Government Code).

Specifically, Paxton terminated employees of his office who made good faith reports of his unlawful actions to law enforcement authorities. Paxton terminated the employees without good cause or due process and in retaliation for reporting his illegal acts and improper conduct. Furthermore, Paxton engaged in a public and private campaign to impugn the employees' professional reputations or prejudice their future employment.

## ARTICLE VII

(Misapplication of Public Resources-  
Whistleblower Investigation and Report)

While holding office as attorney general, Warren Kenneth Paxton misused public resources entrusted to him.

Specifically, Paxton directed employees of his office to conduct a sham investigation into whistleblower complaints made by employees whom Paxton had terminated and to create and publish a lengthy written report containing false or misleading statements in Paxton's defense.

## ARTICLE VIII

## (Disregard of Official Duty-Settlement Agreement)

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by concealing his wrongful acts in connection with whistleblower complaints made by employees whom Paxton had terminated.

Specifically, Paxton entered into a settlement agreement with the whistleblowers that provides for payment of the settlement from public funds. The settlement agreement stayed the wrongful termination suit and conspicuously delayed the discovery of facts and testimony at trial, to Paxton's advantage, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

## ARTICLE IX

## (Constitutional Bribery-Paul's Employment of Mistress)

While holding office as attorney general, Warren Kenneth Paxton engaged in bribery in violation of Section 41, Article XVI, Texas Constitution.

Specifically, Paxton benefited from Nate Paul's employment of a woman with whom Paxton was having an extramarital affair. Paul received favorable legal assistance from, or specialized access to, the office of the attorney general.

## ARTICLE X

## (Constitutional Bribery-

## Paul's Providing Renovations to Paxton Home)

While holding office as attorney general, Warren Kenneth Paxton engaged in bribery in violation of Section 41, Article XVI, Texas Constitution.

Specifically, Paxton benefited from Nate Paul providing renovations to Paxton's home. Paul received favorable legal assistance from, or specialized access to, the office of the attorney general.

## ARTICLE XI

## (Obstruction of Justice-Abuse of Judicial Process)

While holding office as attorney general, Warren Kenneth Paxton abused the judicial process to thwart justice.

After Paxton was elected attorney general, Paxton was indicted by a Collin County grand jury for engaging in fraud or fraudulent practices in violation of The Securities Act (Title 12, Government Code). Paxton then concealed the facts underlying his criminal charges from voters by causing protracted delay of the trial, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

## ARTICLE XII

## (Obstruction of Justice-Abuse of Judicial Process)

While holding office as attorney general, Warren Kenneth Paxton abused the judicial process to thwart justice.

Specifically, Paxton benefited from the filing of a lawsuit by Jeff Blackard, a donor to Paxton's campaign, that interfered with or disrupted payment of the prosecutors in a criminal securities fraud case against Paxton. Blackard's actions caused protracted delay in the criminal case against Paxton, including the delay of discovery of facts and testimony at trial, to Paxton's advantage, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

## ARTICLE XIII

(False Statements in Official Records-  
State Securities Board Investigation)

While holding office as attorney general, and prior to, Warren Kenneth Paxton made false statements in official records to mislead both the public and public officials.

Specifically, Paxton made false statements to the State Securities Board in connection with its investigation of his failure to register with the board as required by law.

#### ARTICLE XIV

##### (False Statements in Official Records- Personal Financial Statements)

While holding office as attorney general, and prior to, Warren Kenneth Paxton made misrepresentations or false or misleading statements in official filings to mislead both the public and public officials.

Specifically, Paxton failed to fully and accurately disclose his financial interests in his personal financial statements required by law to be filed with the Texas Ethics Commission in furtherance of the acts described in one or more articles.

#### ARTICLE XV

##### (False Statements in Official Records- Whistleblower Response Report)

While holding office as attorney general, Warren Kenneth Paxton made false or misleading statements in official records to mislead both the public and public officials.

Specifically, Paxton made or caused to be made multiple false or misleading statements in the lengthy written report issued by his office in response to whistleblower allegations.

#### ARTICLE XVI

##### (Conspiracy and Attempted Conspiracy)

While holding office as attorney general, Warren Kenneth Paxton acted with others to conspire, or attempt to conspire, to commit acts described in one or more articles.

#### ARTICLE XVII

##### (Misappropriation of Public Resources)

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by causing employees of his office to perform services for his benefit and the benefit of others.

#### ARTICLE XVIII

##### (Dereliction of Duty)

While holding office as attorney general, Warren Kenneth Paxton violated the Texas Constitution, his oaths of office, statutes, and public policy against public officials acting contrary to the public interest by engaging in acts described in one or more articles.

**ARTICLE XIX****(Unfitness for Office)**

While holding office as attorney general, Warren Kenneth Paxton engaged in misconduct, private or public, of such character as to indicate his unfitness for office, as shown by the acts described in one or more articles.

**ARTICLE XX****(Abuse of Public Trust)**

While holding office as attorney general, Warren Kenneth Paxton used, misused, or failed to use his official powers in a manner calculated to subvert the lawful operation of the government of the State of Texas and obstruct the fair and impartial administration of justice, thereby bringing the Office of Attorney General into scandal and disrepute to the prejudice of public confidence in the government of this State, as shown by the acts described in one or more articles.

**PRAYER**

Accordingly, the House of Representatives of the State of Texas, reserving to itself the prerogative of presenting at any future date further articles of impeachment against Warren Kenneth Paxton; of replying to any answer he makes to these articles; and of offering proof to sustain each of the above articles and to any other articles which may be preferred, requests that Warren Kenneth Paxton be called upon to answer these articles of impeachment in the Texas Senate, and that in those proceedings the examinations, trials, and judgments be conducted and issued in accordance with law and justice.

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE SMITHEE: The clerk has just read approximately 20 articles and my question is will the house be asked to vote on each of these articles separately or will it be asked to vote on all of the articles as a whole?

SPEAKER PHELAN: Mr. Smithee, under the resolution recently adopted by the house, we will vote one time on all of the articles of impeachment.

SMITHEE: My question is if members of the house were convinced that there was sufficient evidence, if any, to indict under one count would a vote for the resolution be construed as a vote to indict on other counts as well?

SPEAKER: Mr. Smithee, the chair cannot speculate on members personal perception on the vote for the resolution.

SMITHEE: Will each of the counts be laid out before the house separately, along with the evidence on each count, so the house can make an informed decision as to each count of the indictment—or the impeachment resolution?

SPEAKER: Under the resolution previously adopted by the house just now, we will begin that proceeding as soon as Mr. Murr is recognized.



SMITHEE: With all respect, I don't think my question was answered and that's whether we will have the opportunity to review the evidence that supports each specific ground separately or will all of the evidence will be provided a then we will have to sort out among ourselves which evidence pertains to which count?

SPEAKER: Mr. Smithee, when we recognize Mr. Murr to lay out the resolution, I expect him to lay out each article as we go forward, yes, sir.

REPRESENTATIVE CANALES: Under Rule 5, Section 49, each member can also enter memorandums or comments as to their vote in those particular articles. For instance, Mr. Smithee is saying if we take a vote on all of it, but we're not convinced as to some articles, we would be able to make an entry into the journal as to the articles that perhaps we are not in agreement with?

SPEAKER: You are correct Mr. Canales. Each member has the right to place that statement in the journal.

The Honorable Andrew Murr addressed the house, speaking as follows:

We are going to do a layout and then after our layout it is our intention to certainly take questions. I'm going to defer to each committee member who will provide a portion of that information to you. We'll begin with Speaker Geren.

The Honorable Charlie Geren addressed the house, speaking as follows:

Members, before I get started I'd like to bring to your attention that I put a letter on each of your desks that was composed by former member David Simpson called "Honor and Humility." I would appreciate it if you would take the time to read that.

Members, we're here today because the attorney general asked this state legislature to fund a multi-million dollar settlement against him brought by the whistleblowers. There was no investigation prior to this time. We wanted to look further into the reasons behind that. A whistleblower lawsuit was filed against the State of Texas in November 2020 alleging that Attorney General Ken Paxton wrongly fired employees for reporting their concerns that unlawful conduct by Mr. Paxton occurred. As members may know, under the Texas Government Code, Title 5, Chapter 554.002(a), a state agency is prohibited from suspending or terminating the employment of a public employee who reports a violation of law by another public employee in good faith to an appropriate law enforcement authority. This provision exists to protect individuals from retaliation and the public from illegal, unethical, and harmful actions of a state or local government entity—including elected officials of our state. What members should find notable about this case is the individuals involved. These whistleblowers included four of the most senior staffers serving under Ken Paxton at the Office of the Attorney General. They included a former DPS trooper and Texas Ranger serving as director of law enforcement, deputy attorney general for legal counsel, deputy attorney general for criminal justice, and deputy attorney general for policy and strategy. These individuals were republican, civil servants who were, in many cases, recruited personally by the general to join the OAG. The individuals sought to advise him in the highest ethical standards and they had been staunchly loyal to General Paxton. While General Paxton has referred to

these staff members as political employees, it is undisputed that these individuals were high-ranking, senior staff members with years of legal and civil service experience, and who had the highest level of access in the office of the OAG. Hardly political appointees in my opinion. It is also undisputed that each of these individuals were fired after reporting General Paxton to law enforcement for concerns of bribery and abuse of office among other issues.

In February of this year, a settlement for the lawsuit was reached. As a part of that settlement agreement, General Paxton agreed to apologize to former employees for calling them rogue, publicly accept that these men acted as they thought was right, and agree that the former employees would receive 3.3 million taxpayer dollars. This element served to stave off a trial, including the discovery process that could have brought new and important information to light. Because of this, neither the terminated employees nor the State of Texas were able to gain any more information about what transpired in that office. Most disturbingly, the settlement agreement was made without prior approval of funds and obligates the Texas taxpayers, not General Paxton, to pay \$3.3 million for his actions. Of course, the Texas Legislature would have to agree to payment of that settlement amount.

Members, one of the key responsibilities of the General Investigating Committee is to look beyond partisan affiliation in order to take the necessary steps to protect the institution that is our state government. We do just that today with this resolution. I would like to point out that several members of this house, while on the floor of this house doing the state business, received telephone calls from General Paxton personally threatening them with political consequences in their next election.

The Honorable Oscar Longoria addressed the house, speaking as follows:

The process undertaken by the General Investigating Committee and staff to better understand the settlement agreement, and by extension, any investigation into unethical actions by General Paxton has maintained the highest standards of integrity and professionalism. The investigation began in mid-March and was lead by a team of experienced state and federal prosecutors, former public integrity unit leaders, and law enforcement personnel.

Our chief counsel and committee director brought her experience as a public prosecutor, former assistant United States attorney for the Southern District of Texas, and federal prosecutor to her role as chief counsel. We had a career prosecutor with over 25 years of experience, including experience as a division chief of a public integrity unit in Texas; a seasoned attorney with 12 years as a federal prosecutor for the U.S. Attorney's Office for the Southern District of Texas; another dedicated prosecutor who's experience includes being chief prosecutor for major fraud and public integrity matters; a former law enforcement captain with over 40 years of experience with high-profile, complex cases; and an experienced criminal defense attorney with private investigator experience based out of Galveston County, who's worked many high-profile cases. The General Investigating Committee requested this team of highly qualified professionals to conduct an inquiry into the whistleblower lawsuit settlement, issues related to the lawsuit, and to make an inquiry into the policies, procedures, and actions of the

Office of the Attorney General and specifically Mr. Paxton. While these individuals are known conservatives amongst legal circles, they are above all professionals with the requisite skills and experience to conduct an investigation of this magnitude and importance. This team was further tasked to ensure they maintained an independent and objective investigation and was clear with all witnesses and stakeholders that the purview of the investigation was not tied only to the whistleblower settlement, but to the broader information sought on the policies, procedures, and actions of the OAG.

The team methodically reviewed hundreds of records including court filings, reports, past depositions, and related documents including what is commonly known as the "OAG report" concerning the Office of the Attorney General's own investigation into the actions alleged as a basis of the whistleblowers' lawsuit. The OAG report, I will note, serves as Paxton's statement of defense to the allegations raised by the whistleblowers and contains a multitude of statements that were disproved by our committee's investigation. I think this is very important, members. Furthermore, the report was available on the OAG website at least as recently as May 23, the day before the committee's public hearing. It has since been removed. The team also conducted 15 detailed interviews of individuals involved in these allegations to further determine a timeline of events and establish consistency in background information and facts.

The research and investigatory findings by the attorneys and professional investigators that compose this team act as our basis of the articles of impeachment you see before you here today. We ask you, as faithfully elected members of the Texas House, to consider the overall context of these findings to determine who benefited from these actions and whether a pattern of not just unethical, but possible criminal action is found.

The Honorable David Spiller addressed the house, speaking as follows:

In a public hearing on Wednesday, May 24, the house General Investigating Committee heard approximately three hours of detailed, compelling testimony from a team of highly trained and experienced investigators, including multiple attorneys who had served as prosecutors specializing in white collar crime and public integrity cases. The testimony reported facts relating to and supporting claims of multiple instances of misconduct committed by Attorney General Ken Paxton. You have been provided a transcript of that hearing and have had an opportunity to view and consider the video broadcast of the entire public hearing. Members, it is important to provide you with a concise summary of the pertinent facts brought forth in that hearing. In doing so, I intend to focus on what I believe is to be primarily relevant to the matters demonstrating that Attorney General Paxton abused his office and his powers for personal gain. I will address several issues reported to our committee.

First, let's visit about Nate Paul. Nate Paul is a real estate investor in Austin. Nate Paul was also a friend of Attorney General Paxton and a donor to Attorney General Paxton. Nate Paul had a real estate business, World Class Holdings. Nate Paul was in trouble with federal law enforcement. In August of 2019, FBI agents executed search warrants at Nate Paul's home and his business, World Class Holdings. Nate Paul owned and controlled World Class Holdings and World

Class Holdings controlled a number of other entities. In November of 2019, attorneys for Nate Paul made Public Information Act requests to the Texas State Securities Board for documents relating to the search warrants issued against Nate Paul and his businesses. The Texas State Securities Board requested an attorney general's opinion as to whether or not it was required to release the records. The Attorney General's Office issues approximately 30,000 to 40,000 open records decisions each year. There is no evidence that Attorney General Paxton had ever taken a personal interest in any of those decisions except for this one that related to Nate Paul. Although the requested information clearly fell within the law enforcement exception, and would not have to be released, Attorney General Paxton pressured the OAG staff to issue an opinion that would have allowed for the records that Nate Paul sought to be released to Paul. A highly unusual move that was contrary to well-established precedent relating to protecting the integrity of criminal investigations. Despite pressure, the OAG issued a ruling that all records relating to the request were not subject to disclosure due to a pending criminal investigation of Nate Paul.

In March of 2020, Nate Paul's lawyers tried again. This time making a Public Information Act request to the Texas Department of Public Safety for documents relating to the search warrants issued against Nate Paul and his businesses. DPS, you see, had cooperated with and assisted the FBI in the execution of the search warrants against Nate Paul. Because the search of Nate Paul's home and businesses was conducted by the FBI, the FBI filed a brief with the OAG urging the OAG to follow its long-standing practice, policy, and procedure of not providing documents relative to an ongoing criminal investigation. A redacted version of that brief was sent to Nate Paul's attorneys, but Nate Paul wanted the unredacted version and Attorney General Paxton tried to help him get it. DPS requested an attorney general's opinion as to whether it was required to release the records. Again, Attorney General Paxton pressured a deputy attorney general to issue an opinion that would have allowed for the records that Nate Paul sought to be released to Paul, including the unredacted FBI brief. Attorney General Paxton revealed that he had spoken personally with Nate Paul and told OAG staff that he didn't want to help the FBI or DPS in any way. Attorney General Paxton then took the entire file that had all of the responsive documents, including documents sealed by federal court, and didn't return them for approximately 10 days. Attorney General Paxton then directed that the final opinion be issued and that the OAG take no position on whether the documents should be released. Then in May of 2020, Nate Paul's lawyers made another Public Information Act request—this time to the OAG—seeking the unredacted FBI brief. Attorney General Paxton directed the same deputy attorney general to find a way to release it to Nate Paul and to draft an opinion authorizing their release. Attorney General Paxton then directed an aide to deliver a manila folder directly to Nate Paul at Nate Paul's place of business. The contents of the folder were never disclosed to OAG staff and Nate Paul never followed up to attempt to compel production of the requested documents. Presumably, there was no need to.

Next, let's talk about the Mitte Foundation. The Roy F. and Joann Cole Mitte Foundation is a nonprofit corporation and charitable foundation located in Austin. Aside from performing a number of charitable purposes, it invested in and was a limited partner of several entities controlled by World Class Holdings—again, Nate Paul's company. The Mitte Foundation filed suit against several of those entities controlled by Nate Paul's World Class Holdings claiming, among other things, that the Mitte Foundation was being denied access to the books and records of the companies. A right, generally, that every limited partner has. The litigation grew and later resulted in a court-appointed receiver being appointed over the entities.

Now, the Financial Litigation and Charitable Trust Division of the OAG is entitled to receive notice of any litigation involving a charitable organization in the State of Texas. The OAG can intervene in such cases if the determination is made by the OAG that it is necessary in order to protect the assets of the charity. In January of 2020, after receiving notice of the pending litigation, OAG lawyers in the charitable trust division filed a notice with the court declining to intervene in the case. A standard practice and reasonable under the circumstances since the Mitte Foundation was well-represented by very capable counsel. However, in May or June of 2020, Attorney General Paxton began to take a deep, personal interest in the case. The OAG has approximately 35,000 open civil cases each year, but this is the only one that Attorney General Paxton had ever taken a personal interest in—the one involving Nate Paul. Attorney General Paxton had several discussions with the OAG staff about intervening in the case. Against the advice of the OAG staff and contrary to the OAG's prior determination not to intervene, Attorney General Paxton directed the Charitable Trust Division to intervene in the lawsuit. After intervening, Attorney General Paxton instructed a deputy attorney general to review the pleadings in the case. That deputy attorney general informed Attorney General Paxton that the OAG had no interest in the case, the OAG shouldn't waste its resources on the case, and that the parties in the case had already reached a \$10.5 million settlement agreement, which Nate Paul subsequently breached. In other words, he defaulted on his obligation to pay the \$10.5 million. The deputy attorney general strongly advised Attorney General Paxton to have nothing to do with Nate Paul and to get out of the case. So intense was Attorney General Paxton's desire to help Nate Paul in the case, that he even suggested personally attending and appearing before the court which would have been unprecedented. Attorney General Paxton directed OAG staff to file a motion to stay the case—in other words, stop the case—to force a mediation. A move which hurt the Mitte Foundation's position in the case and only helped Nate Paul's position—a position contrary to the best interest of the Mitte Foundation to which the OAG's office had a fiduciary obligation due to its representation. Based on Attorney General Paxton's directives, the OAG attempted to force the Mitte Foundation to settle the case for about \$5 million—less than half of the \$10.5 million for which they had previously agreed to settle. The OAG subsequently withdrew from representation. The case moved forward and the Mitte Foundation recovered a judgment for \$21 million from a forced sale of some of Nate Paul's properties.

Meanwhile, Nate Paul continued to have financial problems. Thirteen properties belonging to Nate Paul's business entities, and which Nate Paul was a personal guarantor, were scheduled to be foreclosed upon on Tuesday, August 4, 2020. Approximately four days before that, on Friday, July 31, 2020, Attorney General Paxton contacted OAG staff to look into whether restrictions on in-person gatherings due to COVID could prevent foreclosure sales of properties. Attorney General Paxton then made it clear that he wanted the OAG to issue an opinion by Sunday prior to the sale stating that foreclosure sales could not be permitted to continue. That was contrary to established law, policies, and procedures in that there was no written request for such an opinion from a qualified requestor. The time frame for responding to a request like that is typically about 180 days due to research, preparation, analysis, and review. When asked who requested the opinion, Attorney General Paxton gave no name, produced no letter requesting the opinion, and only gave staff a phone number which was incorrect. Attorney General Paxton was wanting the opinion letter done in two days over the weekend. The opinion letter was prepared and issued, but was never published as are other opinion letters. The effect of that opinion letter was used to thwart the foreclosures of Nate Paul's properties.

In May of 2020, Attorney General Paxton contacted the Travis County district attorney and requested a meeting to help Nate Paul present a criminal complaint against federal and state law enforcement officials, prosecutors, and judges. The complaint was presented, but Nate Paul refused to swear to the truth of the allegations contained in the complaint. As expected, the Travis County district attorney refused to have anything to do with an un-sworn complaint and referred it to the OAG. Staff at the OAG investigated the claims and determined that no credible evidence existed to support any criminal charges. Attorney General Paxton, however, disagreed and insisted that a criminal investigation move forward. In August of 2020, Attorney General Paxton sought OAG staff assistance in seeking outside counsel. That would have been a violation of OAG policies and procedures in that the OAG seldom seeks outside counsel on criminal cases due, in large part, to the fact that they have about 800 assistant attorneys general on staff to handle criminal matters. Attorney General Paxton was informed that the OAG's approval process for handling outside counsel requires authorization from at least 10 different OAG personnel throughout several stages. All designed, at least in part, to prevent the hiring of unqualified, conflicted lawyers. Further, the process is designed to be able to draft and approve a contract, to make assessments, approval for funding, and things of that nature. However, again, hiring outside counsel for a criminal case is seldom necessary. Attorney General Paxton later fought assistants on the ability to retain outside counsel to investigate criminal allegations. Attorney General Paxton was advised that Texas law only allows that in a couple of circumstances. One, if a prosecutor recuses himself or herself and the trial court appoints an attorney pro tempore as a prosecuting attorney; or two, if a prosecuting attorney requests the assistance of the attorney general and the attorney general offers the prosecuting attorney the assistance of his office.

Attorney General Paxton later informed OAG staff of his decision to retain Brandon Cammack, a criminal defense attorney who had been licensed only 5 years and had never served as a prosecutor. It was later disclosed that the source of the referral—where did Cammack come from—was, of course, Nate Paul. Attorney General Paxton instructed OAG staff to draft an outside counsel contract and send it to Cammack immediately. Cammack approved the contract, but didn't date it and began acting under the guise that he was approved by the OAG although the contract had not yet been approved. OAG staff refused to approve the highly irregular contract. Attorney General Paxton continued to be involved, meeting with and pressuring staff to approve the contract. OAG staff continued to refuse to approve the contract and notified Attorney General Paxton that the contract was not yet approved. Despite this non-approval of the contract to retain Cammack, Attorney General Paxton instructed Cammack to begin work. The contract was never approved. The contract, even if it would have been approved, did not identify Cammack as a prosecutor. It specifically stated that Cammack was not to provide indictment or prosecution legal services. Despite this, at the instruction of Attorney General Paxton, Cammack proceeded to conduct work and falsely represent himself as a "special prosecutor" in order to obtain 39 grand jury subpoenas directed to Nate Paul's adversaries relative to the Nate Paul complaint which were directed to the very law enforcement agencies and entities contained and specific documents referred to in the FBI unredacted brief that Nate Paul was never to have received a copy or access. The parties and information contained in the subpoenas would not have been knowable unless someone had access to the unredacted FBI brief. The subpoenas were signed by Cammack as special prosecutor. Further, Nate Paul's lawyers accompanied Cammack when serving one or more of the OAG subpoenas. All of these actions were taken under the instruction, involvement, and approval of Attorney General Paxton. When the OAG staff learned of the issuance and service of the subpoenas, they had them quashed or canceled.

In summary, what I have outlined to you is not an exhaustive list of the claims and issues presented to our committee. It is, however, a compelling substantiation of the fact that Attorney General Paxton abused his office and his powers for personal gain. Attorney General Paxton continuously and blatantly violated laws, rules, policies, and procedures by improperly and illegally using OAG staff, resources, and monies to intervene and interfere in the civil dispute and criminal matters of his donor and friend, Nate Paul, and benefitting himself.

Members, I remind you that your function in this process is to act somewhat in the capacity of a grand jury. An impeachment is similar to a criminal indictment, it must be followed by a trial in the senate. You don't have to have proof of anything beyond a reasonable doubt or by preponderance of the evidence. The house decides only if there is sufficient evidence to justify further legal proceedings. Today is a very grim and difficult day for this house and for the State of Texas. Attorney General Paxton has a brilliant legal mind and has worked diligently for the State of Texas. I have great appreciation and respect for the many, many things that he has done for this state. Frankly, Attorney General Paxton deserves praise for his fierce, consistent efforts to push back on behalf of

Texas against unconstitutional federal mandates, executive orders, rules, and laws. But members, no one person should be above the law—least not the top law enforcement official of the State of Texas. We each took an oath of office. Attorney General Paxton took an oath of office and he violated that oath. He put the interests of himself above the laws of the State of Texas. He put the interests of himself over the established laws, policies, and procedures of the Office of the Attorney General. He put the interest of himself over his staff, who tried to advise him on multiple occasions, that he was about to violate the law. He put the interests of himself over the top officials in the Office of the Attorney General that he fired and retaliated against for reporting, in good faith, their belief that he violated the law. He put the interest of himself over the lawful functions of the FBI, the DPS, and other law enforcement agencies and prosecutors and their attempts to investigate and prosecute criminal activity. He put the interests of himself over the taxpayers, whom he asked to foot the bill for millions of dollars to pay for his illegal activity and to pay for his personal interests—all without having to answer any questions under oath about his activities and actions. He put the interests of himself over the citizens of the State of Texas.

Members, it brings me no pleasure to be standing here today in front of you dealing with this matter. I know that it's not pleasant for you either, but we have a duty and an obligation to protect the citizens of Texas from elected officials that abuse their office and their power for personal gain. As a body, we should not be complicit in allowing that behavior. We should not ignore it and pretend it didn't happen. Texas is better than that. Thank you, members.

The Honorable Ann Johnson addressed the house, speaking as follows:

The last 72 hours has shown us why Ken Paxton is so desperate to keep his case in the court of public opinion because he has no ability to win in a court of law. See, in a court of law, a judge will preside over that case and he will be treated just as any other civil or criminal defendant. Witnesses will be under oath for all the world to see. This past Wednesday, two investigators and four career prosecutors with decades of work in public integrity and white-collar crime revealed that they had confidentially been interviewing witnesses and reviewing evidence into Attorney General Ken Paxton for months. Public integrity means looking into and prosecuting elected officials who have used their office for their own gain. This body—we—have passed numerous laws to protect the public from corrupt officials like abuse of official capacity, official oppression, misuse of official information, bribery, and corrupt influence—all of which we have here. White-collar crime, not your pickpocket, and the use of complex systems that can destroy companies, wipe out people's life savings, cost investors millions of dollars, and erode the public trust in institutions. Crimes like mortgage fraud and securities fraud. These are not new concepts to the committee's investigative team, but their discovery that the state's top cop is on the take was and is extraordinary.

Criminals have an MO—a *modus operandi*—a method of operation. Just like any common theme of a thief, a rapist, or a murderer where they have patterns that can develop over time, Paxton has shown over time he has a power in his ability to not respond until caught. Once he has learned he is caught he will



often lean on political friends, delay the process as much as he could to avoid the courtroom, and lie to the public for almost a decade thinking his reelection served as the ultimate get-out-of-jail-free card. We sit here to judge, like any other grand jury, to decide whether or not we want to move forward. Criminals rarely confess. That is why we don't have to prove motive and we don't have to prove cases in any other way than ideas such as circumstantial evidence. And so let me explain circumstantial evidence.

We've all been in the grocery store. I want you to imagine that you turned down the aisle and as you start down the aisle you see another person coming the other way. They're pushing their buggy. They've got a child sitting there in the top of it. They're reaching up for items. They're looking down at their list. And as you get to each other, "Oh, I'm so sorry. Are you okay? I didn't mean to hit you." Do you think that they meant to hit us? You can see all the circumstantial evidence around it and say, "I don't think they meant to hit us." Now, let's say that we turn down the aisle and on the other end of the aisle there's a cart coming, a person pushing, no distractions, no baby, no list, and they're coming right for us. And we move over the other way, and they come in our lane. We move over the other way, and boom, "I'm sorry, I didn't mean to hit you." Do you believe that? It is the same analysis that we go through in looking at an entire timeline when determining criminal activity. We also are not required, when a potential offender tells us a statement, to take them at their word. We look and we are responsible for evaluating and looking at all the circumstances.

So let's take a look at what's happening with Texas Attorney General Ken Paxton. It's around October 2020, and the office is beginning to scramble in a crisis. Calls are starting to come in because there are agencies and entities receiving subpoenas that they are wondering "What in the hell are you doing? Are you really looking for this kind of information?" At that point they are aware that there are more than 30 subpoenas that have gone out to banks asking for loan information, checking and saving account information, and the personal cell phone data of bankers, investigators, and a judge. They begin to recognize that these subpoenas are supposedly authorized by Brandon Cammack. Who the heck is that? You have these entities of operations of men who have been in different silos who all come together and they all, at that point sitting around with each other, realize that there is a common thread that they are hearing. They all perk up. They realize the conduct that the attorney general has independently been committing with each of them over a course of a number of months—all roads lead to Nate Paul. All of them recognize through their own independent discussions with the attorney general. They have warned him, "Nate Paul is no good. You can do a common Google search and see his bankruptcies. There is no way you should have anything to do with him and there is no way this office can participate in anything on his behalf."

Article I. When Ken Paxton asked the Office of the Attorney General to interfere in The Mitte Foundation, as Representative Spiller has spelled out, he turned the Attorney General's Office against a nonprofit. As the lawyers for that nonprofit said, they felt "ominous pressure" being forced to attempt to settle on the cheap to the benefit of Nate Paul when the Office of the Attorney General

suggested that they settle for \$5 million when they already had a \$10.5 million recognition that Nate Paul was supposed to provide, and then later being recognized that the value of that case to them was \$21 million. You heard from Representative Spiller that, unusually, Ken Paxton involved himself in these matters in a way he had never before done with regard to a charitable entity. He broke the fundamental rule that this body has passed to say that the attorney general will protect nonprofits for the interest of the vulnerability of all Texans. In this case he turned that on his head, represented his friend, and he broke the law. This article represents abuse of official capacity which is a third-degree felony warranting two to 10 years in prison.

Article II. When Ken Paxton asked the Office of the Attorney General, as Representative Spiller just displayed—what they called the midnight opinion—Nate Paul has 13 properties that are in foreclosure and he knows that he has one or more set this next Tuesday. They go scrambling and they originally write an order that says, "There is no need for us to shut down." Ken Paxton says, "No, do it the other way." They acknowledge to him and say, "You do get that we're going to say that while it's COVID that 10 people can't get together outside for a foreclosure and that goes against every other policy that was being issued at the time by the state with regard to COVID." They issue it anyway. When Nate Paul is deposed and he is asked, "Did you have contact with Attorney General Ken Paxton before that order was done?" "Yes, I had contact with him before that." Ken Paxton—he broke the law. This is misuse of official information, another third-degree felony warranting another two to 10 years in a prison.

Article V. When Ken Paxton sets up this rare lunch, he asked the Travis County DA's Office to sit down and meet with Nate Paul. He makes a personal introduction. As a courtesy, the Travis County DA stays, they listen to Nate Paul, and they think, "There is nothing here for us to do to investigate." He insists that he wants them to try to help him because he believes that he has been falsely accused and needs to get access to information with regard to the FBI. They require that you give a sworn statement. The reason they want you to give a sworn statement is you want to try to prevent people from using law enforcement agencies for false and vindictive purposes. He doesn't give a sworn statement. Travis County says, "Nothing for us to do here." There is no there there, there is no case there. Ken Paxton then assigns Mark Penley, deputy AG, and David Maxwell, the director of law enforcement, to meet with Nate Paul and to meet with him. They again tell Ken Paxton, "No evidence of a crime and no state interest" is here. There is no reason for us to get involved or have anything to do with this guy or his allegation that the federal government has tampered with him. Ken Paxton insists, "Do it again." At this point, Nate Paul comes back and he has some records that he suggests have been tampered with. The Attorney General's Office then has an expert go through the point of doing analysis on the document and again comes back and says, "There's nothing wrong here. This document has not been tampered with." Ken Paxton says, "I just need you guys to meet with Nate Paul and tell him." They, again, sit down in a room with Nate Paul, Ken Paxton, and these senior officials and they say look, "There's nothing here that this office can do for you in this circumstance." They describe that Nate

Paul gets "incensed" and "dresses them down—senior staff—like they were his employees." These two men, for decades, say, "We're not getting involved. We're not doing this." As Representative Spiller said, there's some 800 lawyers that can engage in criminal issues.

Ken Paxton decides that he's not going to let it go. Ken Paxton is going to now look at two different individuals to hire to act as a special prosecutor—one of which is decorated with decades of prosecutorial experience and the other is a 5-year lawyer—a defense attorney who had never been a prosecutor. Guess which one gets hired? The guy that's got no prosecutorial experience. It's because he comes with the recommendation of the attorney who works for Nate Paul. Ken Paxton sets aside money for this young individual to work and he tells Penley that he needs to hire him. Penley refuses and will not sign the contract. He says no. Ken Paxton, again, asks on a Saturday, "Come meet me. I want to talk with you." They meet in McKinney and when they do, Penley again warns Ken Paxton, "You are exposing yourself to potential criminal liability." He says, "Do not do this." Ken Paxton says, "You've got to sign the contract. He's been working for two weeks and he needs to get paid." Penley then says, "Fire him. I will not participate and I will not supervise this guy," and Ken Paxton responds "Don't worry, I will."

The grand jury subpoenas that are put out include bank records, individuals, and contacts as already recognized with regard to investigators and a judge in a case involved with Nate Paul. This raises serious questions about the release of public information. It raises serious questions about exposing a search warrant. Why do we have search warrants and why do we redact them? Because we appreciate law enforcement. We appreciate those witnesses that will come forward in the interest of justice and we do not turn over those files to a target because what can happen? Witnesses can be tampered with and evidence can go missing. It is a fundamental tenet of offices of prosecution and law enforcement that you do not expose those individuals. But as Representative Spiller has already indicated, there is a correlation between the access of that unredacted file and Ken Paxton to Nate Paul. And sure enough, it is those individuals and their information that's being sought in this warrant.

One of those investigators later goes to get his car fixed. When they get the car fixed and you know how they raise it up? He says, "Hey, can I take a look underneath?" and finds a tracker. Finds the tracker has been active in searching and it's been on around the time that these things start happening. Ken Paxton broke the law. Misappropriation of fiduciary property which is a state jail felony carrying six months to two years and another case of bribery carrying a second-degree felony of two to 20 years and abuse of official capacity, another third-degree felony carrying a punishment range of two to 10 years.

Article III and Article IV. When Ken Paxton asks that they issue this no decision. When you have the receipt of the manila folder that he has for seven to 10 days. When we know, like any other criminal who wants to cover his tracks, he doesn't hand it to Paul himself. He gets a young aide and gives him the package and asks him to deliver it to Nate Paul at one of his Austin businesses.

Ken Paxton, again, broke the law. Misuse of official information, abuse of official capacity, again an additional third-degree felony warranting two to 10 years in prison.

When these whistleblowers—these individuals—find out what's happening, they begin desperately to start cleaning up Ken Paxton's mess. They recognize that those 39 grand jury subpoenas that go out—let me explain how this happens. The attorney general typically will assist in other counties. It is not unusual that they went to Travis County and they said, "I need to issue these grand jury subpoenas." A grand jury subpoena carries weight. It means you must comply and if you don't you're in violation of the law. It was issued by "Special Prosecutor" Brandon Cammack and it was signed by a judge. It is the Attorney General's Office themselves—these entities, these individuals—who started to see when it boiled over and realized what was happening around Nate Paul that they go file motions to quash. A motion to quash means, "I'm telling you that you no longer have to respond to this order." And in doing so, they say that the individual that had submitted them did not have the authorization and should not have done it and they should not comply with that response.

Articles IX and X. Articles IX and X relate to the issues of the affair and the renovations. Why is the affair important? The affair is important because it goes to Ken Paxton's political strength. He knows that with his folks he is family values. He is a Christian man and the idea of the exposure of the affair will risk him with his base. In fact, when the affair comes out, there are a couple of people in the office that say, "I can't work for you and I'm leaving." He has an interest in attempting to keep this affair quiet. He also has an interest in continuing it. Another staff member says that he comes to them distraught of how he is continuing to be in love. And she tells him, "What the heck are you doing? You are exposing yourself and you are exposing this office to potential blackmail and potential influence, and you can't do it." The other benefit is that Nate Paul giving his mistress a job means that he no longer has to drive back and forth from San Antonio to see her. It makes her more convenient and here in Austin.

With the renovations—you may have heard that part of the story with the renovations is that they have a home here in Austin that is undergoing floor to ceiling renovations. The idea of this is that there is a young man with Ken Paxton. He normally has a security detail, but he starts doing things without that detail and he starts doing things that are not on his schedule. One of those things is going to this renovation house of which there is a disturbing encounter. This young man realizes that as they are standing there in the home and Ken Paxton says, "Hey, we want to change out these countertops and get something else," and they say, "It's going to be like \$20,000." "That's all right, go for it." The contractor says, "I'll have to talk to Nate." This young man is disturbed by it. In fact, he's crushed by it. He believes Ken Paxton is one of his heroes—he is the leader of the Republican Party and he is the attorney general. This young man is bothered by it enough that he eventually asks him and says, "Hey, what was the deal with that?" And this young man does not get an answer of which satisfies him.

The whistleblowers now come forward and disclose their information. It is after that when this young man is offered a promotion. He declines and he leaves the office. After he leaves the office he continues to get a stipend and a check from Ken Paxton's campaign for \$250 a month. He calls repeatedly and says, "I don't want this money. Please stop it." It goes on for about 4 months. At the point in time that it finally stops, he writes a check and he sends it back to the campaign without anybody knowing about it. This is the kind of integrity of the people that we describe when we say that the committee investigators have met with more than 15 people—many of them republicans, many of them who worked in the office as civil servants, and many of them deeply conflicted about the information about what they had to disclose and the individual. Because each of them, almost to a fault, attempted to remain loyal and help Ken Paxton. In these two articles, again, Ken Paxton broke the law. He received an improper gift to a public servant, a Class A misdemeanor carrying up to a year in a local jail. He again has the appearance of bribery, a second-degree felony. You all get to judge. Like that cart coming down the aisle, are these just individual isolated incidents of which you can dismiss or are they an unexplainable pattern of ongoing criminal conduct?

Articles XII, XIII, XIV and XVI. These relate to the underlying securities fraud and the failure to properly disclose and register. I think that Speaker Geren said it best in our hearing, if you were watching, because at one point there is a discussion about \$100,000 gift given to Ken Paxton. The issue was the fact that he originally did not disclose it as a securities operator to say, "Hey, I have a vested interest in what I'm getting." It's either an improper donation and disclosure of which he is aware of the laws and obligations for transparency. When he gets busted on that he says, "No, it's just a gift." And somebody says, "What do you mean it's a gift?" and he says, "I met a guy in a Dairy Queen and he told me 'God told me to give you this \$100,000.'" Speaker Geren said it really well, "I have never had anybody come up to me and said, 'God told me that I should give you \$100,000.'" That's not the only \$100,000 incident. There is another \$100,000 gift which is a donation to his legal defense fund and there is another questionable securities-issue gift with regard to the Mowery Corporation. We see, like in those circumstances, that it is his opportunity to delay and extend the court proceedings that keep him from never having to go to court. We bring those incidents to you to look at that whole aisle to determine the course of conduct that he has set in motion for almost a decade. Is that part of his MO? It is when he gets caught in those circumstances that he will say, "Oh, no. I'm sorry. I forgot. I didn't realize. I should have registered it this other way." There are probably a lot of folks in here that speed. You may have a lead foot. I now want you to think about how many tickets you've gotten because you've sped a whole lot more than you've been caught. These are three instances of payment of large amounts of cash to a man that he did not attempt to correct until busted.

Articles VI, VII, and VIII. These deal with the whistleblowers. These individuals, who were doing everything they could on behalf of the State of Texas and everything they could on behalf of that office, were fired. They were not only fired, they were shamed. It stained their reputation and it stained their

careers as great public servants and law enforcement officers in an attempt for Ken Paxton to save his own skin. Through this investigation those individuals have been talked to, but I will tell you there are others. There are those that are not yet brave enough to come forward, and we won't judge them because it's almost like, why would you? This guy has gone almost a decade manipulating the processes, throwing false narratives out, and almost proving himself to be untouchable. We see that same MO starting now—complaints of process, and "I haven't gotten to tell my story." This is his story. This document, almost 400 pages, was sitting on his website for years. This is his answer to the whistleblowers' complaint. This document went missing after we said, "Don't do anything with any of the evidence in this case and you are currently under investigation." I guess it is hard to walk into a committee and claim nobody has asked you any questions or looked at process if this sucker is still sitting on your website. It is gone. And it is illogical that somebody wouldn't have realized that we would have printed out a copy.

Not only did we print out a copy, but the committee investigators reviewed this report and in the hearing you can start on page 124, line 10, and you can go all the way to page 130, line 19, where the investigators say, "Not only did we review everything and talk to the witnesses involved and looked at the evidence," but page 46, false claim; page 5, false claim; again page 5, false claim; page 49, false; page 5, misleading; page 49, false; page 50, false; page 6, false; pages 5 and 6, false; page 42, false; page 52, false; page 7, misleading; page 39, false; page 39 again, false; page 39, false; page 39, false; again accusation, false; accusation, false; accusation, false; page 34, false. And then asked, "Do you want me to keep going?" "Please." False; page 52, false; page 56, false. Shockingly or not shockingly, Ken Paxton's office investigation into whether or not Ken Paxton committed his own crimes has been recognized to be repeatedly false. Again, with regard to the whistleblowers, Ken Paxton broke the law. Retaliation under Government Code is a felony of the third degree carrying another two to 10 years in prison. Official oppression is a Class A misdemeanor warranting a year in a local county jail and the Government Code, 554.002, of the whistleblower statute and civil penalties.

Article XVI, XVII, and XVIII. These go to the ideas that this gentleman is no longer fit for service or for office and that what he has done has impugned the integrity of our court system and those who have worked very hard to keep it functioning. We asked a question to the committee investigators about what they found about those whistleblowers and the courage that they demonstrated. The thing that I think struck all of us in our investigation, not only in speaking with the whistleblowers but other high ranking officials at the Attorney General's Office, is that these are individuals who are extremely well credentialed and qualified. These are individuals who have taken upon their role as public servants to do their oath. It's what their oath asks them to do—to uphold the laws of the State of Texas and to uphold the Constitution. Many of the people that we spoke with specifically said that the whistleblowers are known outside of the Office of the Attorney General's circle. They are well-respected former law enforcement and they are well-respected attorneys. They are individuals who are considered

subject-matter experts in the field and they are oftentimes the cream of the crop. They rose to the positions that they are in because of their work ethic and because of their dedication. And the feeling was shared, almost universally, that the actions that they were being asked to take, the positions that they were being put in, and the decisions made by the attorney general sullied their office and sullied their commitment and their careers.

I've had the opportunity to work in criminal courts for almost 20 years and I feel for you in the same way that I feel for jurors. Nobody asks to have to be brought in to make these judgments. But I will say it is not you who asked to be here, but it is the person who continually broke the law, and that man is Kenneth Paxton. This story now comes to the fork in the road for all of us. Either this is going to be the beginning of the end of his criminal reign or God help us with the harms that will come to all Texans if he is allowed to stay the top cop on the take. If millions of Texans can't trust us to do the right thing, right here, right now, then what are we here for?

The Honorable Andrew Murr addressed the house, speaking as follows:

Members, you've heard about the whistleblower lawsuit; you've heard about the work performed by the General Investigating Committee; and you've received a summary of the facts and an explanation of the charges outlined in the articles. Mr. Speaker, I believe we're now ready and willing to take any questions that any members have.

REPRESENTATIVE SCHAEFER: Thank you, Chairman Murr. In your role as a member of the General Investigating Committee, did you interview any witnesses as part of the investigation of Attorney General Paxton?

MURR: As you heard during our explanation, when we learned about the request for a multi-million dollar payment of settlement back in February, the General Investigating Committee undertook the efforts to hire highly-qualified, experienced attorneys and investigators to perform those interviews for us and then report that information back to the committee.

SCHAEFER: Did you interview any witnesses?

MURR: As I explained, the folks that we hired to work for the committee did the interviewing.

SCHAEFER: Did any member of the General Investigating Committee cross-examine a witness?

MURR: As I've just explained to you, we hired long-skilled and qualified attorneys and investigators to do that work for us and it was conducted in a very professional manner. Each of those investigations and interviews involved the attorneys for the witnesses, including the whistleblowers.

SCHAEFER: Chairman Murr, are you aware of any member of the Texas House of Representatives who was given an opportunity to interview witnesses.

MURR: I'm going to answer that in a broad stroke because I understand that you're trying to make a point. What I'll tell you is this originated with the request for \$3.3 million dollars, and that started back in February when we understood that a settlement agreement had been reached by parties in that litigation.

SCHAEFER: I understand the gist—

MURR: I understand. I'll finish. At that time, Mr. Paxton and members from his office actually appeared before an Appropriations Subcommittee and requested payment of funds, but declined to answer questions as to what happened in the lawsuit.

SCHAEFER: Chairman Murr, do you know whether any witnesses that spoke to the investigators hired by the committee were placed under oath?

MURR: No witnesses were placed under oath analogous to any investigation that you would have into criminal activity. Typically, you do not see law enforcement or investigators place a victim or a witness under oath. That occurrence occurs at a trial. And as you're well-aware and as we issued a memo explaining the process of impeachment. This is not the body that does the fact-finding, the fact-finding occurs in the senate and the oath for any witness would occur there.

SCHAEFER: Well, Chairman Murr, you said when you came up to the dais that you've heard the facts, and I wouldn't agree. We have not heard facts yet because no facts have been established. Are you aware of any transcripts or video recordings of witness interviews conducted under the auspices of the General Investigating Committee?

MURR: Yes.

SCHAEFER: Were those witness interviews, transcripts, or video recordings ever made available to the full membership of the Texas House of Representatives?

MURR: Importantly, the transcript from the multi-hour presentation by our retained attorneys and investigators was made available on our committee website and published and printed for all the members of this body.

SCHAEFER: Were there transcripts of the investigators interviewing witnesses?

MURR: Recordings were made of each interview.

SCHAEFER: Were those recordings made available to the membership of this body?

MURR: No. Those are part of the investigatory process of the General Investigating Committee.

SCHAEFER: Chairman Murr, have the members of the full house been given the opportunity to ask questions to the persons hired by the General Investigating Committee to investigate Ken Paxton?



MURR: Those questions were made by members of the committee and I'll point out that our House Rules—for almost a decade—have embodied the role of the General Investigating Committee to be the workhorse for investigation on behalf of the body, both in areas of concern around the state as set forth in the Government Code and specifically, with respect to articles of impeachment.

SCHAEFER: Chairman Murr, will any member of the Texas House, as part of this proceeding, be able to ask questions to the persons who investigated Ken Paxton?

MURR: Right now, today, you have the report from the committee before you and we have done that work on behalf of the committee pursuant to the House Rules, pursuant to the Government Code. We are providing that information to you.

SCHAEFER: As part of this proceeding today, will the members of this body be presented with any witness transcripts?

MURR: We have provided a transcript of the multi-hour hearing. The video is also available to you.

SCHAEFER: Were there any witnesses that testified in that hearing you're referring to?

MURR: No. That was a hearing in which the attorneys and the investigators that were hired by the General Investigating Committee provided a detailed and fact-specific summary of all the evidence from their 15 interviews of witnesses and the culmination of reading pleadings, documents, and other information that they gathered.

SCHAEFER: Chairman Murr, has any member of this body heard directly from a witness that was involved in this investigation.

MURR: I'm not advised of that because there's no restriction for any member here to reach out to any participant in the whistleblower allegations and the lawsuit. It's been going on, literally, for more than two years so I'm not advised.

SCHAEFER: Have you made any opportunity through the auspices of your committee for the witnesses to engage with the members?

MURR: That is the purpose of the committee. If members wanted to engage directly with that I don't think there's any restriction, but I'm not advised if that has occurred.

SCHAEFER: So there's no restrictions, but your committee chose not to make an opportunity for the members to talk to witnesses, is that correct?

MURR: Again, I will point out that the construction of the House Rules for almost a decade, as well as the Government Code, establish investigatory authority with the General Investigating Committee. So that is the workhorse for your investigation purposes.

SCHAEFER: But is it not correct to say that your committee could have made witnesses available for the membership to speak with and ask questions?

MURR: I will point out whenever you bring that up that—let's start first with the whistleblower lawsuit. The whistleblower lawsuit involved four individuals who were terminated from their employment because they feel like they did the right thing. They identified what they realized was criminal wrongdoing and they went to law enforcement and reported it. They reported that to HR, to some extent, but were terminated—were fired from their jobs. Now, other people that learned about that went ahead and resigned because they said, "I can't work in that environment." All said, we learned, and you're aware, that of 15 witness interviews all but one said that they had grave concerns for retaliation from Mr. Paxton on a professional basis and that it might affect their livelihoods, their ability to keep or get a job—similar with their spouses. They were very concerned about that. This work was done with the fact that some of those folks that agreed to sit down, or were subpoenaed and sat down and did interviews, did so while they said, "I will certainly appear at a trial and under oath provide testimony. I am concerned about my name being out there. I am concerned about unnecessary exposure when I'm living in a world of a little fear of retaliation everyday."

SCHAEFER: Chairman Murr, you and I heard the presentation by Representative Johnson. In that presentation she said that all roads lead to Nate Paul. Do you remember her saying that?

MURR: I heard that.

SCHAEFER: Did the committee compel any testimony from Nate Paul?

MURR: The committee began its work by reaching out to the participants in the whistleblower lawsuit and from there went to witnesses identified by those folks. Those would be participants who were not in the whistleblower lawsuit. The committee has not reached out to Mr. Paul.

SCHAEFER: Did the committee subpoena any documents from Nate Paul?

MURR: The committee has not yet subpoenaed any documents from Nate Paul.

REPRESENTATIVE TINDERHOLT: How many investigators were there?

MURR: We hired a total of two investigators and that was laid out. I think you heard that from Chairman Longoria as he presented.

TINDERHOLT: Essentially there were five people that were hired. Was it five or six?

MURR: Six.

TINDERHOLT: I misunderstood, I thought there were five. How were they chosen?

MURR: The active goal was to look for folks that had experience, especially in public integrity matters and white collar crime. We preferred to have experience gathering information with a keen eye of whether or not any criminal conduct occurred because that was the basis of allegations in the whistleblower lawsuit.

TINDERHOLT: Were they all from the same city or county?

MURR: No.

TINDERHOLT: Had they all worked in Harris County in the past?

MURR: To my knowledge, off and on they may have, but not all of them at the same time.

TINDERHOLT: Would you be surprised if I told you that all five of them worked in Harris County with the vice-chair of the committee, that you're the chair of, that initiated this resolution? Would you be surprised by that?

MURR: I also wouldn't be surprised—you have Chairman Dutton behind you—that Harris County has over 2 million people and a lot more attorneys and investigators than many other jurisdictions around the State of Texas.

TINDERHOLT: Would you be surprised that three of those five were fired by their district attorney at one point?

MURR: I believe that you will also learn that they have experience that spans decades and often times worked in environments that swayed and ebbed and flowed pursuant to elected officials.

TINDERHOLT: Are you aware that three of the attorneys vote in democratic primaries and one of them switched to being a democrat in the primaries in 2020?

MURR: I do not care how they voted in a primary or election in Harris County. What I do care about is their work product and their ability to conduct themselves professionally and to provide an opportunity to gather detailed information on behalf of the General Investigating Committee.

TINDERHOLT: Do you see how it could appear or it could be perceived by anyone in the building or outside the building when they're democrats. Could you see how it could appear that it's a politically motivated investigation?

MURR: I could also see that multiple of those persons that we hired to work for us also worked in the U.S. Attorney's Office for a republican appointee from a republican president. So no, I do not see that appearance.

TINDERHOLT: I believe perception is truth to the person that perceives. If someone perceives something it's truth to them whether it's truth or not. I think the hiring, where they're from, the fact that they were fired, and that they're democrats could create perception this was politically motivated.

MURR: I disagree completely with you.

TINDERHOLT: My understanding is that they did not reach out to anyone in Attorney General Ken Paxton's office—not from the highest levels and not from the lowest levels during their investigation, is that correct?

MURR: As I explained earlier, and you heard other explanations, in February Mr. Paxton and members of his staff appeared before the Appropriations Subcommittee and requested \$3.3 million to fund a settlement, but declined to provide any additional information. Now I do know, and we've provided explanation, that an almost 400-page document was produced on their website in defense of that lawsuit and that's where things were.

TINDERHOLT: So none of them were talked to since March when this investigation was initiated?

MURR: No sir, we began with the whistleblowers to learn more information about the claims that they had made in their lawsuit.

TINDERHOLT: We've had a couple of impeachment proceedings over the history of Texas and in both of those the opposing party was talked to. As a matter of fact—let's just talk 1975. In 1975 they had 70 to 90 hours of open testimony and meetings. You had one day. Those hours that were given, anyone could go watch them and listen to them and both sides were afforded the opportunity to say their side. In the 1917 case, I believe, they were on the floor in the Committee of the Whole, and the chairman was asked questions by committee members. The reason I'm saying all this is there's no testimony. As a matter of fact, the AG's Office tried to go to your committee on May 24, but were not allowed. That's concerning for me. Can you explain why Attorney General Paxton's office was not contacted, and not allowed to testify on their own behalf?

MURR: You've got a lot of questions, so if you'll give me a little latitude here to try to address several different topics. You talk about 1917 and you talk about 1975. In 1917, it involved a recently resigned governor who was no longer in office. In 1975, it involved a district judge from a single county in the State of Texas. Those both involved an era which didn't contain our current House Rules that were designed to put the power of adopting articles of impeachment into a committee such as General Investigating. Therefore you saw, as you mentioned, the Committee of the Whole. I explained that in the memorandum that we provided to this body yesterday. Comparatively, to a recently resigned governor or a district judge in a single county in the State of Texas, we're talking about an accused person that is currently in the highest elected office for an attorney in the State of Texas. He sits in that office and can use the significant powers granted to the attorney general to do a lot of different things. That makes it very concerning whenever you're going through this process. As you've seen the last few days, we have literally seen the attorney general use his agency to lobby this legislature. We have seen the attorney general call people on the floor to lobby.

TINDERHOLT: When you say that, you're making accusations. I hadn't heard that. I'm not saying it's not true, but you're levying that like it's actual truth. Did he call your office?

MURR: No, he did not call my office, but I am familiar with the fact that there are members on this floor that received telephone calls from the attorney general.

TINDERHOLT: Are you aware that in 1975 they didn't give us 48 hours to decide. They gave us both sides of the story and they gave three weeks to decide. Why are we given 48 hours to make this decision and be here today? I feel like it's rushed. I perceive that it could be political weaponization and I'm asking why are we given 48 hours when in 1975 they were given three weeks with both sides of the story?

MURR: If you'll look at the investigatory process in 1975, it lasted approximately 50 to 60 days. I appreciate the fact that for you it seems sudden and rushed, but for the purposes of the committee we have been working on this since February whenever this legislature was asked to spend taxpayer dollars to fund a settlement of a whistleblower lawsuit. This committee has been working since March. The culmination of our work was placed and downloaded into a very long and lengthy detailed public meeting of which the video is publicly available and the transcript is publicly available.

TINDERHOLT: Why weren't we, as members, not apprised as to what was being investigated for two months when historically the members know and the public knows?

MURR: As you are well aware, the House Rules and the committee rules and, actually, sections of the Government Code place the authority to do investigation with the General Investigating Committee. In some instances, as you are well aware, that is done in confidence both to protect those that raise concerns, protect the process as far as witnesses go, and to protect the end result which is providing evidence and information.

TINDERHOLT: Let's compare two investigations without names. There was Matter A and B. In the matter that we disposed of earlier this month the opposing party—the party that was being blamed for something—was asked to testify as were the people in and around this individual's office. So both sides came and testified to you or were given the opportunity. Can you tell us why in this case they weren't allowed to, but in the other case that was disposed of this same month, they were allowed to and asked to?

MURR: I understand. Respectfully, you're comparing an apple to an orange. So when you're talking about Matter B, you're talking about a process that involved written complaints of workplace conduct. That is addressed in the Housekeeping Resolution, House Rules, and the committee rules. It's handled in a very special and specific way and that is not necessarily the same framework in which we are talking about the articles that we have before us today which also could involve committee functions, but they could be derived in the Government Code as well as our House Rules, but in different sections.

TINDERHOLT: I believe that they're both also similar in the fact that we removed a duly elected state official from their seat and that's what's potentially going to happen to this individual. I see large similarities. A couple of other small questions that I want to close out with is are you aware that both Trump and Cruz made statements about this today?

MURR: I'm not advised.

TINDERHOLT: They both did and I'll spare the body some of the statements that Trump made because I don't want to engage in personalities. But Ted Cruz—are you aware that he's a constitutional attorney?

MURR: I'm not advised.

TINDERHOLT: He is and he basically talks about how the swamp wants this individual moved out of their office and he's showing full support for the attorney general. I'm just wondering if you have any statement about that when he's actually seen, recently, one of the most egregious impeachments in the history of the United States and he's speaking about it. Do you have any statement about that?

MURR: I would only direct he and members of the public to go watch the video of our investigators and attorneys providing detailed information to the committee and/or read the transcript that's publicly available.

TINDERHOLT: My last question is how much did these investigations cost us because we were never made aware and we weren't asked about it. Can you give us just an estimation of what was spent to conduct these investigations?

MURR: I am not advised of that.

TINDERHOLT: Thank you for being respectful and I appreciate you, sir.

### **PARLIAMENTARY INQUIRY**

REPRESENTATIVE TOTH: It was laid out that the opening remarks were only going to be 30 minutes, but they went significantly longer than that. Are we not going to have the opportunity in turn for more questions?

SPEAKER PHELAN: The chair stated that the opening statements would not impact the time allowed for questions and they did not. The full 20 minutes was allowed for questions. The hour taken in opening testimony will count against them in general debate.

### **HR 2377 - REMARKS**

REPRESENTATIVE SMITHEE: I assure you I'm not going to take 30 minutes. Let me tell you, first of all I'm not here today to tell you that General Paxton should not be impeached. That's not why I'm here. Bottom line is I don't know whether he should or not because I don't have the evidence before me to make that determination. All I'm telling you is this house cannot legitimately, in good faith, and under the rule of law impeach General Paxton today on the record that it has before it. I'm not here to defend Ken Paxton. That's not my job. I'll leave that to someone else. I'm here to defend two things that are precious to me. One is the rule of law, and the other is the integrity of the Texas House of Representatives of which I've given a good part—the best part—of my adult life.

What we're doing here today is very important, you've heard that. It's a very sober and somber experience and process and it should be. There's three reasons for that. You've heard, and I've heard conversation on the floor from members and we've heard a bit of this today, this is only like a grand jury and we don't need to adjudicate guilt or innocence. That's true. But this house, historically and with its precedent, has always applied a higher standard to these proceedings than it has to a typical grand jury. The house has always been concerned about due process and constitutional rights and, above all, the fairness that goes with a process such as this. There are three reasons for that. In my opinion, very

compelling reasons. The first is that our actions today have an immediate consequence. If we vote to impeach today, as soon as we do that, then General Paxton will be automatically relieved of his duties. He will no longer function as attorney general of the State of Texas. It's what I call the "Hang-them-now-and-judge-them-later" policy. The consequences of our impeachment is that he will be removed from the responsibilities of his office, even though his guilt or innocence has not yet been adjudicated.

The second reason is that the house has always insisted on a complete record—which we have no record before us, no report before us. But the second reason is it is our responsibility to provide a record upon which the senate can make its adjudication of guilt or innocence. Yes, they will have a trial there, but the basis for that trial is the record that we prepare here in the house, and there is no record to send to the senate. The third reason—and to me this is extremely important—and that is we should be, but are not, looking at precedent. Future legislatures should and probably will be looking at this precedent. We do not need to be relaxing the due process and the fairness concerns. When we go home, we'll have to defend—each one of us members will have to defend, not only the final result that we reached today and the way we vote, but we'll also have to defend the process by which this determination was made. Members of the house, to me this process is indefensible. It's absolutely indefensible. Not to be critical of anyone, but when you look at the precedent—precedent is so important. I recently argued a case in the Supreme Court of Texas and our argument was that precedent matters and as the court pointed out in both of its majority and concurring opinions, it said that precedent is important for two reasons. One is because of predictability and the other is stability. Stability and predictability—that's important in the law and it's important in house and senate procedure.

As we approach this today, we basically have two prior impeachment proceedings and one that began as an impeachment proceeding—actually two that began as impeachment proceedings—that are instructive for us. The first one has been mentioned. It's the 1917 impeachment of Governor Ferguson and in that there are several things that are very instructive, historically, that occurred in that particular impeachment. First, the house has always—always—adopted rules in advance and they have always authorized the investigation into the public official. That way it is done out in public and it is done with the antiseptic of sunlight. This was not done this way. Rules are adopted in advance. We received the small rules that we have less than a few hours ago. The rules were made up as we went in this process, and that's not the way it should be. One of the things that the rules have always required since 1917, again in 1929 in the aborted Robison Land Commissioner impeachment, and again in 1975 in the Carillo impeachment—one thing that the legislature has always insisted on is that the proceedings be done in public and that the public have access and that the public have knowledge.

Now, I think it's ironic that we're conducting this hearing today. We're doing this determination today during a holiday weekend when most of our constituents are busy doing what you should be doing on Memorial Day weekend, and that's

memorializing those who have given all for this country or else they're spending time with their family. They're not concerned about this. It's like dumping information late on a Friday afternoon of a news cycle. We should be doing this in the open daylight. We should be doing it not with 48 hours notice. We actually had less than 24 hours notice that we were going to do this today. We should be doing this with full notice and full opportunity for the public to participate—not directly in the house chamber, but to watch and to attend if they choose to do that. We shouldn't do it on a holiday weekend. We've always had the public involved throughout the process in the hearings, in the committee hearings, and all throughout the process.

Another thing they've done in 1917 that they've done continuously since then is they have always said that the accused, in this case General Paxton, had the right to be represented by counsel during the proceedings. There is no indication in the record that General Paxton was ever afforded that opportunity. Number three—since 1917, in all of the intervening impeachment proceedings since then, counsel for the accused has been permitted the opportunity to cross-examine the witnesses. That never occurred because no witnesses were ever examined in this case. Not one witness was every examined by the committee. Not one fact-witness who knew anything about anything was examined in the committee. Do you know how it worked? They had these investigators, these kind of anonymous investigators—we know their names, we know a little bit about them—these investigators, they came and spoke to the committee. From the record that I've been able to uncover, and I confirmed this with Mr. Murr, they were not even required to sign witness affirmation statements before the committee. We require witness affirmation statements when somebody testifies on behalf of a local or on an uncontested bill, but we didn't require it in this instance. What you've heard and what's in this report is not one shred of evidence. You're all familiar with the term hearsay, but what you have in this case is triple-hearsay in most cases. It is hearsay within hearsay within hearsay. No prosecutor would ever try to get a grand jury indictment based solely on hearsay within hearsay within hearsay. No jury would ever convict, no civil jury could ever enter a verdict based on the evidence that's before this house today.

So that's another thing—there was no ability for counsel of Mr. Paxton to cross-examine. There was no ability for anyone to cross-examine. In 1917, the house determined that the impeachment proceeding would be conducted as a trial with all of the due process requirements in place normally given. That's not the case with grand jury proceedings, but the house was convinced that it wanted to go the extra mile in providing fairness and notice so it was conducted as a trial. One other thing that applies to every impeachment that has ever been done in the Texas House of Representatives has been that all evidence must meet the standard required under the Texas Rules of Evidence. I will tell you there is not one word, not one sentence, in the testimony before you that would be admissible in any Texas court of law under the Texas Rules of Evidence. It is hearsay within hearsay within hearsay.



Here's something else that is troubling. In a court of law—some of you have testified—you're sworn under oath. You testify on your honor that you will tell the whole truth and nothing but the truth, so help your God, okay? If you don't do that and it is later found out, you are subject to charges for perjury. Because of that limitation most people—not all people, but most people—tell the truth when they're giving official testimony. It concerns me, and I hope it concerns you, that in this case not one—in this impeachment proceeding—not one witness was put under oath. Not the investigators who testified what Person A testified that Person B told them. Person A was never put under oath and Person B was never put under oath. No one was put under oath. So here you have all these things that amount to accusations, but not testimony and certainly not evidence. That concerns me. It concerns me a lot because today it could be General Paxton, tomorrow it could be you, and the next day it could be me. Our fundamental rights of due process are so important to every one of us. They're important to preserving the republic that we have. Now, one other thing. The testimony has always, in the Texas House—any testimony used to impeach someone—has always been under oath with penalty of perjury. And another thing that has always been done, and we're breaking precedent in that regard, is counsel for the accused has always been permitted to attend within the house chamber—the open chamber of the house—to represent the accused. Members of the house have always been given the opportunity, even though they do not serve on the committee, to submit written questions to be asked of the witnesses. That never, ever occurred in this case.

In 1917, you had rules adopted in advance so everyone knew what the rules were. You had the public involved in the proceedings. You had the accused with the right to be represented by counsel, you had the right to cross examination; and it was conducted like a trial. Evidence was admissible and all testimony was given under oath. That was what due process and fairness looked like in the Texas House of Representatives in 1917. In my opinion, that's what due process and fairness should still look today, not only in the Texas House of Representatives, but everywhere.

Let's talk a minute about the 1975 impeachment proceeding involving Judge O.P. Carillo. Two members of our house were present for that—Speaker Craddick and Representative S. Thompson were both present for that. The author, many of you know, was Terry Canales Sr., who was—and I believe Mr. Bryant was present at that time, too. Terry Canales Sr. was the author of the impeachment resolution. It's very instructive what happened in 1975 because at the beginning of the proceeding, Judge Carillo was notified that there was an impeachment proceeding investigation pending. The house select committee sent this notice directly to Judge Carillo by telegram. They said, "You are invited to be present in person or by an attorney. Any evidence you care to present bearing on the inquiry will be welcome. The principal function of this committee is to develop facts, and your assistance in this endeavor will be appreciated." The accused was told, "If you've got any evidence or anything you want us to know, anything that might be used to exculpate your guilt in this case, we want to see it because we want to be fair and we want due process." That's what fairness and

that's what due process looked like in the Texas House in 1975 and that's the way it should still look. We've learned from the record and talking to some committee members that General Paxton was never notified of these proceedings. He was never invited, much less allowed, to provide any material, any evidence, or any testimony that might in any way be exculpatory towards his guilt. That is not fairness. That is not due process. That is not the way that things should be done.

A couple of other words about the Carillo impeachment proceeding: Members then were allowed to submit questions. All members involved were allowed to submit questions to all of the witnesses. They actually had witnesses in that case. There were 32 witnesses, as a matter of fact. All witnesses who testified were testifying based on personal knowledge. Not one in this case based on personal knowledge. They testified under oath for approximately 70 hours of testimony before the house committee that considered impeachment in that situation. They accumulated 15 volumes of testimony and they had 170 documents in evidence. What we have is—we don't have a report, there's always been a report—there's no report there is only a transcript and it is 170 pages—somewhere in that range. It's thin. It's just 170 pages. Not one document in that case. One hundred and seventy documents were submitted as part of the report in evidence. In this case, although multiple documents are referred to as being highly incriminatory to General Paxton not one of those documents has been provided to the house and not one is attached to any report that's been provided to the house.

And so you have that matter of due process. It's like in 1975, the house embarked on a slow and deliberative process. They invited the accused to attend and present any evidence that might bear on his innocence. They gave the opportunity for cross examination by counsel for the accused. That was what due process and fairness looked like in 1975 in the Texas House and it's what it should look like here today. You know, members, I'm aware that there are certain members in this house—certain members in this chamber—who want to get rid of General Paxton for whatever reason in the worst possible way. And I'm here to tell to tell you that what we're doing is absolutely the worst possible way. There's a right way to do things and there's a wrong way to do things. If you want to do this the right way, what we should do is vote no on the resolution today. If you want to, we can come back as a committee and do this the right way. And the right way would be—we have subpoena power. We can compel these witnesses who supposedly have factual knowledge. We can compel them to come in and testify under oath with the opportunity for cross examination. We can notify the attorney general, we can subpoena documents, we can allow the attorney general to appear and present any exculpatory material that he might have, and we can do it the right way. The committee can do that after we have adjourned the session. We can be called back for a one-day hearing to consider a real record that gives us a sufficient basis.

You've heard this compared to a grand jury proceeding, and in some ways it's like a grand jury proceeding, and in other ways it is not. But I can tell you this, no grand jury can legitimately indict any individual or any potential criminal defendant without evidence. You can't indict without evidence. Period. What

you're being asked to do today is to impeach without evidence. It is all rumor, it is all innuendo, it is all speculation, and is all things we may speculate to be true, but we don't have what is defined or what qualifies as evidence in any court at law, not only in Texas, not only in the United States, but in most developed countries in the world. I would just say this—if I'm ever going to be part of any impeachment proceeding that actually results in the impeachment of an officer, I don't want it to look like a Saturday mob out for an afternoon lynching. I want it to look like a clear, deliberative, somber and sober exercise in the quasi-judicial function that the Constitution gives us the right to engage in. Members, thank you so much for your attention today. I appreciate the time that you've given me.

REPRESENTATIVE TINDERHOLT: It's a sad for our chamber. We often talk in this building about transparency in everything that we do because our voters deserve that. I feel like there wasn't a lot of transparency for the entire two months of this. The Texas House is taking a practice that's only been used twice in Texas history and is deviating severely from that practice instead of carefully deliberating on this issue, like those who came before us. We've decided our chamber is nothing more than a weapon to wield against political opponents. This body is afforded more time for debating tampon tax relief than we've given to deciding whether to impeach the highest law enforcement office in our state. Let me tell you, I don't think today is about whether there's guilt or innocence—it's about the process. At the beginning of this session, Speaker Phelan ruled this chamber wasn't allowed to debate legislation or rules that could be seen as using it for political purposes—this is political purposes. Now our attorney general who was strongly reelected by the voters, in both our primary and general election, might be impeached today because he's a political opponent of the opposing party.

Members, I'm deeply concerned by the way this investigation was handled. The current house is totally breaking with precedent for considering an impeachment, according to the last two we've done in history. The General Investigating Committee never interviewed the attorney general, never interviewed top staff, or anybody else, especially when they showed up on May 24. Why? I can't answer that question, but I can say that it creates a horrible perception. According to Chairman Murr, this matter has been under investigation for approximately two months and records show that to be true. But our chamber was never informed as to what was being investigated. Does pushing this through so quickly in the late hours of session seem ethical, thoughtful, or responsible? I say no. I've heard many of you say in the past that you don't want Austin to look like D.C. The sad reality is that Adam Schiff and Nancy Pelosi put more time and deliberation into the impeachment of Donald Trump than the Texas House has done in the last week regarding this matter.

For my republican colleagues, I want to let you know that I'm sorry that you're being used like this. I'm sorry that you're being forced to swallow a long list of policy that was killed in this chamber and then be used to impeach one of the most popular republicans in our state. Remember, we're not talking about whether there's guilt or innocence. We're talking about process. The same voters

that sent each of us here elected him as our attorney general. Some don't like that. But to make a last minute decision to impeach him without due process or transparency is imprudent at best and a gross abuse of power at worst.

This session, the General Investigating Committee has investigated two matters that we know of. In one, the respondent was afforded due process to respond to the allegations while the committee was convened in an executive session. On May 24, Chris Hilton, the chief of general litigation at the OAG, made an appearance at the General Investigating Committee and attempted to register as a resource witness in defense of Paxton. He was denied by the committee. According to the OAG, the general litigation division has a broad practice that includes defending state agencies, elected and appointed officials, and state officials and employees in civil litigation. That's their job. They showed up to do it and they weren't afforded the opportunity. This is one-sided.

In 1975, it was the last time a legislature initiated impeachment proceedings against any official. After a single member filed a resolution recommending impeachment, a select committee on impeachment was appointed to investigate. Across almost two months, 21 committee meetings, and 90 hours of consideration the committee interviewed 32 witnesses with direct insight totaling 70 hours of public testimony. The findings of the committee as well as the transcripts of public testimony were combined into 16 volumes and distributed to members three weeks prior to floor consideration of articles of impeachment—and we have 48. Think about that for a moment. We have 48 hours after everything was secret, except one meeting. In our case, the General Investigating Committee called their own investigators as witnesses in the single public hearing regarding impeachment. Instead of questioning the witnesses in public hearing, the committee allowed the investigators to summarize and potentially editorialize their findings. Is this really what we've come to? If you think this is how we best serve Texans, you're gravely mistaken.

When you vote today, don't listen to bullies inside or outside this building that try to intimidate you into submission. You're better than that. I know you all. This is wrong. You know it and your voters know it. When you go home don't end our session this way, don't tarnish this institution, don't cheapen the act of impeachment, don't undermine the will of the voters, don't give democrats another victory handed to them on a silver platter. There's a better way, and today that better way includes voting no to these impeachment articles.

REPRESENTATIVE HARRISON: I rise today in opposition to this resolution with a heavy heart. Not just because of the seriousness of the allegations—and they are serious—but because of the process, if it can be called that, which lead us here. The allegations against Attorney General Paxton are extraordinarily concerning. However, I am equally, if not more, concerned with ensuring that the Texas House is not using the levers of power to criminalize opposition. Whether that is the true intent of today's proceedings or not, it will be forever impossible to divorce what may be virtuous motives from what we are witnessing today which bears all of the hallmarks of the weaponization of government power to target a political opponent.

Now, let me be clear: Texans should demand the highest standards of ethical behavior, propriety, and adherence to just laws from those in high office. It is very possible that standard has not been met by the current attorney general. He may well have committed acts that are preclusive of being the state's top law enforcement officer. For example, what is not in dispute is that eight of his most senior officials left amid troubling circumstances, and that he—for whatever reason—chose to cut a settlement with them that did, in fact, expose my constituents and yours to paying millions of dollars. This is, of course, a matter that, as fiduciaries of tax dollars, we should take seriously. In fact and as an aside, I wish this body demonstrated the same level of concern for every single line item in this budget that was \$3 million or more. If a public official is going to come under criminal scrutiny, or have allegations raised against them that rise to the level of impeachment, the impeachment proceedings themselves must be unimpeachable. That has not happened here. When the stakes are this high optics matter, perception matters, process matters.

Less than 48 hours ago, and with no warning, we had a resolution containing 20 articles of impeachment quite literally dropped on our desks along with nothing more than the transcript of one single public hearing. Most of these allegations had been litigated in the criminal justice system for many years, and yet not a shred of anything closely approximating new and sufficient evidence has been presented to this body. At most, the investigation has lasted 8 weeks and it was kept secret. There was no impeachment committee and panel, no testimony under oath, no sworn declarations and when the body was told of this—literally hours ago—not one single question directed to the speaker was met with an answer that inspires any confidence in this process whatsoever. We were given woefully insufficient time to consider all 20 allegations before being asked to take a vote that, if passes, would immediately suspend from office a very recently reelected attorney general who has, without a doubt, proven time and time again that he was, in fact, up for the most important task of our time. And that is fighting against the out of control federal government which seeks to destroy our rights, our freedoms, our liberties, our state sovereignty, and our Constitution on a daily basis. The questions before us today, colleagues, should be left before the courts and the voters.

Finally, impeachments are not primarily about the guilt or innocence of the accused, but rather about protecting the integrity of the state and of our cherished institutions. Those are the things that will outlive us and will govern our children. The actions we take while seated in these chairs will determine if the next generation inherits a free Texas where individual liberty and due process protect them from would-be tyrants, or a Texas where the ruling elite, governed by edict, wield their power to criminalize, punish, and silence political opposition. I am opposed to this resolution, not because I am convinced of the attorney general's innocence, but because of the leadership of this body made no legitimate attempt to adequately document his guilt, nor demonstrate, to my satisfaction, that this is anything other than a sham railroading of a political enemy.

REPRESENTATIVE SCHATZLINE: Mr. Smithee, I think you and I both share a deep respect for Chairman Murr as well as his committee. I think our concerns are more so in the process of this. Do you believe that it would be a better route if we were able to have more than 48 hours to actually sit on this information and go through the evidence and make a deliberative decision?

SMITHEE: Yes, and let me echo what you said about Chairman Murr. I will say this, I met with Chairman Murr twice at length in the last two days. He answered every question that I had for him. He answered them honestly and openly, and I appreciate that. I appreciate the time and the effort that Mr. Murr and the other members of the committee have given this process. Nothing that I said was meant to be disrespectful to them. They are all my friends. I apologize to them at this point for not bringing these concerns sooner, but honestly, I couldn't because I didn't know this was going on until Tuesday night. This has kind of unfolded this week. And so what I wish we could have done was discussed this earlier and possibly brought some of these deficiencies in the process to light earlier in the process so that the investigation and the proceeding could be conducted fairly and in accordance with house precedent.

SCHATZLINE: I agree with you wholeheartedly. I would add too, don't you believe that it would have been better if we could get testimony that was sworn under oath from these witnesses?

SMITHEE: I think that's incredibly important for several reasons. Many people will say one thing when they're not under oath, but they say something else when they're under oath. Ask any prosecutor or ask any lawyer who's interviewed a witness who wasn't under oath. They get under oath and they say something different because all at once they realize the gravity and the meaning of what they're saying and the consequences for not telling the truth.

SCHATZLINE: I agree with you wholeheartedly, and you know, looking at the testimony—I appreciate the work that the committee did. My question is why have we not been given access to the same evidence that the witnesses are talking about? Do you believe that we would be able to make a more definitive decision as a body if we had the time and if we were given the actual evidence that is spoken about in the testimony as well as in the transcript?

SMITHEE: That's absolutely right. Direct testimony is always the most reliable and reasonable way to get to the truth. When testimony becomes second-hand or third-hand it becomes much less reliable and much less accurate. I don't feel comfortable making a monumental decision, as this impeachment would be, based on what is essentially third-hand testimony of an investigator having talked to a witness in the OAG who heard this from another employee of the OAG. I don't feel comfortable at that level of evidence.

SCHATZLINE: I agree wholeheartedly with you. Just two more questions. We're tasked with voting on this impeachment today. I wasn't given any access to talk to these witnesses. Do you believe that we who are effectively operating today as

a grand jury are deserving of the opportunity to be able to ask questions of those witnesses so that we can get clarity on some of the transcript that we were handed yesterday?

SMITHEE: There's two ways to do that from a historical precedent. One is to convene the entire house as a Committee on the Whole and basically allow individual members to have witnesses appear before the full house and interrogate witnesses. That might and might not be manageable. But there is another way, which probably is more efficient. That is to permit members to submit questions in writing that would be asked. Members of the house could submit questions in writing to be submitted by committee members under oath in a public forum.

SCHATZLINE: Great, I agree. And last question. Just once more, do you believe that we should postpone this so that we can have access to actual evidence, be able to question witnesses, and take more time to come up with a deliberative decision?

SMITHEE: I'm not sure that we could technically postpone this proceeding because we're already in the middle of it. But if we voted not to accept the motion today, I do not believe that would prejudice the right of the committee or someone else to file articles of impeachment prior to the end of the session and for the committee to begin its work after the session has adjourned. That would not prejudice the ability of the full house to be called back under the procedures that are available, under the Constitution—Article XV of the Constitution—and the Government Code to come back for possibly a day or two days to adjudicate whether there should be an impeachment or not.

REPRESENTATIVE LEACH: Representative, thank you for your many years—decades—of service here in the Texas House. You're obviously very familiar with the Texas House Rules. Are you familiar with Rule 3, regarding the jurisdiction of our house standing committees?

SMITHEE: Yes.

LEACH: And in your time of service here in the Texas House, Representative Smithee, have you ever served as chairman of the house Committee on Judiciary and Civil Jurisprudence?

SMITHEE: Yes, I have.

LEACH: And so, Representative Smithee, you are aware, pursuant to the House Rules and as someone who has served as chair of the Committee on Judiciary and Civil Jurisprudence, that the committee—pursuant to the House Rules—has jurisdiction over several state agencies, including the Office of the Attorney General?

SMITHEE: That's right.

LEACH: Mr. Smithee, is it your experience here in the Texas House that standing committees of the house that have jurisdiction over state agencies regularly invite testimony from the leaders of those state agencies to appear in front of those standing house committees?

SMITHEE: I think that's true and I think sometimes agency heads ask to appear before a committee even when they are not invited.

LEACH: Is it your experience, Representative Smithee, that when a leader of a state agency is invited to appear in front of a standing house committee that the head of that state agency—that state leader—usually appears and testifies and accepts that invitation to appear in front of the house committee?

SMITHEE: Mr. Leach, my experience has been that it is not only standard practice, but that is what we would expect. We would expect agency heads—particularly in this case, I assume you're talking about the attorney general—I would expect the attorney general to make arrangements to be here.

LEACH: Mr. Smithee, are you aware that I, as chair of the Committee on Judiciary and Civil Jurisprudence, held our first committee of this session on March 1, 2023, in which I extended a direct invitation to Attorney General Ken Paxton to appear in front of our committee?

SMITHEE: I can't say that I am aware of that. I may have heard it at the time. I will say he should have been there.

LEACH: Are you aware as to whether or not Attorney General Paxton accepted my invitation to appear in front of our committee?

SMITHEE: My assumption from your question is that he did not.

LEACH: He did not. Representative Smithee, are you aware that at that committee I issued a standing invitation to Attorney General Paxton to participate in any subsequent hearing of the Committee on Judiciary and Civil Jurisprudence?

SMITHEE: I wasn't aware of that.

LEACH: Mr. Smithee, are you aware that our committee—the Committee on Judiciary and Civil Jurisprudence—held a dozen hearings—12 hearings—during the 88th Legislative Session in which we took public and invited testimony?

SMITHEE: I was at a number of those, even though I wasn't on the committee.

LEACH: We did—a dozen. A dozen committee hearings in which our committee—which Chairman Murr was a member of that standing committee—held a dozen hearings during the 88th Legislative Session. To your knowledge, Representative Smithee, did the attorney general ever participate in or appear in front of our committee?

SMITHEE: Not to my recollection, Mr. Leach.

LEACH: That would be correct. He did not. Thank you, Representative Smithee.

REPRESENTATIVE DUTTON: It's your understanding that today this house is meeting similar to a grand jury, is that right?



SMITHEE: Yes. As I mentioned I think it's very comparable to a grand jury in some ways. In other ways it's possibly not, and the reason for that is because in past precedent the house has accorded a greater level of due process in impeachment proceedings than you would normally see in a grand jury proceeding.

DUTTON: And in doing so what is the standard of evidence in this body at this point in time?

SMITHEE: Well, Mr. Dutton, my understanding is that by definition the Texas Rules of Evidence do not apply to grand jury proceedings. I believe that's Texas Rule of Evidence 101 or 102. They do not formally apply. So there certainly is evidence that can be admissible in a grand jury proceeding that is not necessarily admissible at trial. However, the Texas House has, in precedential authority, always required that evidence used to impeach a public official, particularly a statewide public official, complies with the rules of evidence in place at that time. In other words, the normal rules for whether evidence would be admissible or inadmissible in a court of law in the State of Texas.

DUTTON: Would that mean a probable cause standard, for example?

SMITHEE: Well, as far as admissibility of evidence I'm not sure probable cause is a factor, although it becomes a factor. As far as admissibility, I think the key is that the witness needs to have factual knowledge of the events to which he or she testifies. In this case we have no testimony from any witness who had factual knowledge of any relevant events that were relevant to the inquiry that is at hand. All information was second—or even third-hand information.

Now, in terms of probable cause, yes. I think that our level of consideration in this proceeding should rise at least to the level of probable cause. But the probable cause must be based on evidence and not innuendo or speculation or accusation. And so as a result of that, my concern is we have no evidence. There is absolutely no evidence in our record that would justify impeachment. Now, there may be a lot of evidence out there, there may be volumes of evidence that would justify impeachment, but we don't got it. We don't have it. It's not there. And I take this position seriously. We all took an oath and that is I've got to perform my duties constitutionally. As I see it, as I call it, as I perceive it, I can't issue or vote for impeachment based on the record that's presently before the house.

DUTTON: Do you believe that most of the members in here know what beyond probable cause means?

SMITHEE: I think some do. Now, many members, as you are aware, are not lawyers and some lawyers don't practice criminal law. I don't practice criminal law. But I think that we can all understand the concept that there is a very high bar and there should be a high bar for impeachment. It's not something that we should do casually. It's not something that we should do just because we don't like somebody or don't approve of the job they've done in office or they didn't

show up at a committee hearing. I think we have to set a bar that would incorporate probable cause, not beyond a reasonable doubt—that's for the senate—but we do have a standard, a bar, that must be met.

DUTTON: As I was thinking about it, I was looking at the board up here where we typically light up the board voting on bills. Would that standard be higher than voting on a bill, for example?

SMITHEE: Absolutely. Absolutely, because right now we're talking about a vote that will effectively remove a duly elected officer of the State of Texas—elected by a majority of the citizens of this state, from the office that he was elected to less than a year ago, really just about a little over a half year ago. The public has an interest in that. They should have an interest in that. We are undoing what they did. Some people in here may have voted for General Paxton, some people may have voted against. But the majority of Texans voted for him. This is not just something that affects the Texas House of Representatives. It affects every person in the State of Texas—every man, woman, and child, because this is a statewide elected official. And so we have to be very, very prudent and very, very careful.

DUTTON: Well, let me ask a question about the—there's a lot of talk been made about the whistleblower lawsuit. Do you know whether that was a lawsuit involving General Paxton personally or in his official capacity as attorney general?

SMITHEE: You know, Mr. Dutton, I've got to confess that up until all of this happened, I paid not as much attention to the Paxton legal proceedings as I probably should have. So I'm not really aware of the allegations. I'm aware generally of the allegations, but not enough to answer your question.

DUTTON: Well, I guess the question I was getting to is that if he was sued in his official capacity, the state would be on the hook for any damages whether they were by settlement or by trial. Is that right?

SMITHEE: That would be in the official capacity, that's my understanding although I'm not an expert on that.

DUTTON: Right. The last question I have is that when it comes to the members deciding whether to vote for or against this measure to impeach General Paxton, one of the things you raised a moment ago is whether or not his lawyers had ever had a chance to participate in the proceedings, right?

SMITHEE: That's correct.

DUTTON: And sometimes in a grand jury—I know you don't practice criminal law, but sometimes in a grand jury the grand jury may want to hear from the person who is the target of that grand jury. Are you aware of that?

SMITHEE: Absolutely, yes.

DUTTON: Do you know whether—and I know Chairman Leach just indicated he had invited General Paxton to his committee meetings and I don't know what the nature of that was, but do you know whether he was invited today?

SMITHEE: To my knowledge, he was not. Nothing in the record indicates that he was. I also understand that he was not provided advance notice of the investigation nor was he invited to produce any potentially exculpatory information or testimony. I really believe that at some point the—when you have a statewide elected official, it's only right, I mean it's only right to go to that official and say look, "We're getting ready to vote on a proposition to remove you from office. Now, if you've got anything that we need to see before we take that vote, you show it to us so we'll know what to do." That opportunity, to my knowledge, was never provided to General Paxton. And someone, I wasn't there, but apparently someone from his office asked to come to speak to the committee and was denied that privilege.

DUTTON: All of the articles of impeachment, are they violations of the law?

SMITHEE: I'm not sure I can answer that. Honestly, 20—I've been going through those. We've had less than 48 hours and I've tried. Twenty counts is a lot of counts in an indictment or an impeachment. And my problem has been trying to sort what passes as evidence—in other words, the hearsay within hearsay within hearsay—and try to tie it to each count, and I haven't been able to do it. That's why I was hoping as part of the presentation we could have a little organization in terms of what the committee felt supported each of these counts. There must be something there, but I haven't been able to put it together. But once again, we get back to there is zero evidence. Zero. And so we're not talking about evidence here.

DUTTON: If there were violations of the law that were determined to be the case against General Paxton, would the committee have a responsibility to refer that to the DA's office?

SMITHEE: Absolutely. And that's another concern. I think we're all aware that there have been both federal and state investigations into allegations against General Paxton. As far as the whistleblower activities—I know there's been an investigation of that, but I'm not aware of any indictment that's been issued on that. I don't know if the investigation has been suspended or whether it's ongoing, I don't know and I don't think anybody else really does.

DUTTON: And finally do you know whether any of these allegations have been referred to a DA's office anywhere?

SMITHEE: I'm sure some of them have.

TINDERHOLT: You've been here quite a long time. How many years have you been here?

SMITHEE: Well, if I live to the end of this session it will be 40.

TINDERHOLT: So you have a lot of experience. If somebody is invited to one or 50 committee hearings and they don't show up, do you think that they should still be invited to a General Investigating Committee in order to defend themselves, regardless of whether they showed up to previous hearings?

SMITHEE: Let me say, Mr. Dutton was my classmate. He's the only one left. He and I are the only ones. Let me just say that I think it's inexcusable when a state official doesn't show up for a committee hearing, but I'm not sure it's an impeachable offense. I don't know of anyone we've ever impeached in the State of Texas for not showing up at a committee hearing. He wasn't under a subpoena.

TINDERHOLT: Let me ask it a different way. Because he didn't show up to those committee hearings—which he wasn't subpoenaed to, he didn't have to come—do you think that automatically makes it so that he doesn't get invited to defend himself?

SMITHEE: No. I think that what we, in all fairness—if you're really trying to be fair, you go and say, "Look, your job is on the line, General. And if you have any concerns about it, if you've got anything that we need to see, you show it to us." That's just fair play.

REPRESENTATIVE SPILLER: Chairman Murr, there's been a lot of discussion about the fact that apparently some of this testimony was not sworn to under oath. Do you recall all those statements that have been made and the questions and answers?

REPRESENTATIVE MURR: Yes, I recall.

SPILLER: Are you familiar with the whistleblower suit, the petition itself, filed by James Blake Brickman, David Maxwell, J. Mark Penley, and Ryan M. Vassar?

MURR: Yes, we've been referring to that since the beginning of our discussions today. Obviously that was a hot topic back in February, whenever the parties requested this state to fund a proposed \$3.3 million settlement.

SPILLER: My review of that petition—and I've read the petition—it's after page 65. It's about a 120 something page petition, including attachments. But after page 65, it has several declarations. Mr. Brickman, Mr. Maxwell, and all the plaintiffs in the case have each signed a statement and verification. Do you recall that?

MURR: Yes, I do.

SPILLER: In fact, each one of those statements—and I'm looking at it here now—refers to different paragraphs where certain facts are alleged and says that those matters are in their personal knowledge, and that each and every one of those things are true and correct. Do you recall that?

MURR: Yes.

SPILLER: As a matter of fact, they go on to say that they state those things under penalty of perjury, that they are true and correct. Is that correct?

MURR: Yes, there were documents both from that litigation and then, if I recall correctly, documents from the litigation involving The Mitte Foundation in which depositions were made, including that of Mr. Nate Paul. There have been multiple documents that have been reviewed that are either transcripts or signed under oath, whenever folks talk about that process.

SPILLER: I think you mentioned that there was deposition testimony of Nate Paul that was contained and referred to in the materials that we've received?

MURR: Yes, that is correct.

SPILLER: To characterize this as saying that none of the information or none of the statements were sworn to or verified. Would you say that is a misstatement?

MURR: Yes, I would say that's a misstatement and I would also add there is nothing in the House Rules, in statute, or in the Constitution pursuant to these proceedings that we have to go get sworn testimony in the house. As far as the investigation into any allegation of wrongdoing, that is not what is required. That is not necessarily what law enforcement does. Whenever we equate this to a process, even though it is not criminal in nature, but we've talked about this concept that the house serves similarly like a grand jury. The house itself receives information and even Mr. Smithee made a point earlier, that the level of information is going to be different than what would be admissible at trial. And here trial does not occur in the house. Trial occurs in the senate. And in the senate, presumably, rules of evidence would be required. Witnesses would be subpoenaed or voluntarily show up and they would have to be under oath. So we have gathered a lot of information. Now, some of the witnesses that were sought out and interviewed as part of our process were done so pursuant to subpoenas that the committee issued. No witnesses sought to quash those subpoenas. There's methods out there to say, "Hey, I don't want to do this." Those subpoenas came in and they willingly sat down once they received a subpoena and testified. The final thing I will point out, as far as the committee's work and the efforts that we undertake, is that we have to be conscientious that if the committee requests someone to come testify and they raise an issue and say that "if I provide testimony or produce a document and I think that it violates, essentially, a Fifth Amendment right and will get me in hot water," then we can still compel them to testify or produce and they will receive immunity. That essentially is immunity from prosecution of state law and so we have to be conscientious and careful about what the committee does or we wield as an immunity power.

SPILLER: To recap some of this about the sworn testimony, some of these individuals—and I think you've already attested to it as well as some others previously today have talked about—these four people were some of the top people at the Office of the Attorney General, correct?

MURR: Yes, that's right. I think folks are forgetting the fact that division chiefs—these are people who help run one of the most important agencies in the State of Texas. They identified wrongdoing. They reported it to law enforcement and they were fired. They had a lawsuit against their boss and they did provide sworn statements in that lawsuit. In addition to that, either through subpoena or at our request, they sat down and spoke with their attorneys present, with our investigators and attorneys, and they downloaded that information to us. The full expectation here is each one of these people that sat down and helped us gather information is expected to testify at trial under oath.

SPILLER: Much of the relevant portions of what we've covered today, as far as the allegations, all of those have been sworn to by each of these individuals that are listed as plaintiffs in this suit. Is that correct?

MURR: That is correct. Yes, sir.

SPILLER: Let me ask you this. With regard to your understanding, from visiting with the investigators that this committee retained, is that you're understanding that all of the testimony that was gathered and received—because many times in an investigation, you'll have maybe somebody recall something slightly different or there may be slight differences or recollection of facts. Do you know of any pertinent facts, relevant facts, that apply in this instance from any of the witnesses that did not fall completely in line together with the testimony of each witness of that group we sought testimony from?

MURR: Emphatically, no. Importantly, we asked our investigating attorneys, "Did you find variations whenever you went out and sought these facts?" They said no. They all interlocked, they all corroborate each other. They're all accurate. Whether it is statements made in litigation previously or the fact that they were interviewed separately and come to find out that they all had a common recollection of facts. That indicates that they're accurate statements. We rely upon that when we present it to this body to say, "We're asking you to consider sending it to trial in the senate, and we expect those people to show up and offer their testimony under oath there."

SPILLER: Also Chairman, with regard to each of these individuals signing under penalty of perjury, you understand that perjury is a felony criminal offense punished by confinement in the penitentiary?

MURR: That is correct.

(C.J. Harris in the chair)

DUTTON: Can you tell me which of the articles of impeachment are actually violations of the law?

MURR: I'm going to answer your question, but first I'm going to point to the memorandum that our committee distributed to the members yesterday, both electronically and in paper format. As you may be aware, while our Texas Constitution finds a lot of similarity with the United States Constitution, the Texas Constitution is absent when we talk about whether or not it includes a list of impeachable offenses so I think I'm going straight to your question to say, there is no requirement under the Texas Constitution that say an impeachable offense be a violation of criminal law and I want to speak to that just a little bit. Importantly, this body in a report that was provided previously in regards to the impeachment that's been discuss in 1975 of a district judge said that "undermining the integrity of the office, disregard of constitutional duties and oath of office, the irrigation of power, the abuse of governmental process, and the adverse impact on the system of government" are, in effect, impeachable offenses. They reviewed the American law on impeachments and they finally concluded that while it's in relation to criminal law, impeachment is designed to

cope with both the inadequacy of criminal standards—that means we may or may not have a criminal law in place for it—and the inability of our court system to deal with the conduct of great public figures.

DUTTON: I understand that—what you just said—but I don't believe you understand my question. My question was simply, which of the articles of impeachment are violations of the law? I'm not saying that they have to be or they don't have to be, I'm just asking are they? And if there are any that are any violations of the law, would you please point me to them?

MURR: Article I, Protection of a Charitable Organization. That is a violation of duties of his office. Article II, Abuse of Opinion Process. Presumably that would be misuse of the Government Code and the power and process for issuing written opinions. Article III, Abuse of Open Records Process that's set out in Chapter 552 of the Government Code. We've cited that in Article III. Article IV, Misuse of Official Information. We again cite Chapter 552 of the Government Code. Article V, Disregarding of Official Duty. We talked about the violation of laws governing the appointment of prosecuting attorneys pro tempore. There is a specific process in place in which an attorney pro tempore can be involved and Mr. Spiller did a really good job of explaining that to the body that said that only really occurs whenever the local prosecutor recuses themselves from the case or makes a request for additional assistance because their office doesn't have the necessary staff or skillset to prosecute a case and so the AG's Office does. As you heard, the AG's Office has over 800 experienced criminal prosecutors that help in those matters. That process didn't unfold according to what we've set out in law. Article VI, Relating to the Termination of Whistleblowers. Clearly against the law. Article VII, Regarding Whistleblower Investigation and Report. We talked about the fact that whistleblower complaints were made and public resources were misused. Article VIII, Regarding a Settlement Agreement. The allegations there are that it was staying the termination, in effect, forever if no settlement funds were paid. Articles IX and X relates to constitutional bribery and that is found in the Constitution. Article XI relates to obstruction of justice as said by its title it references violations of the Securities Act, which is Title 12 of the Government Code. Article XII refers to obstruction of justice regarding protracted delay in criminal cases and that's an abuse of judicial process. When we talk about Articles XIII and XIV and XV, that has to do with false statements. Typically false statements are made because those statements are required by law. Article XVI, Conspiracy and Attempted Conspiracy. We do have Penal Code provisions related to both of those charges. Article XVII, Misappropriation of Public Resources. If one causes employees of your office to perform services for your benefit, that can be a violation of law. Article XVIII, Dereliction of Duty alleges violations of the Texas Constitution, oaths of office, statutes, and public policy for public officials. Based on the evidence and information that we've provided, we think that the conduct does that. Article XIX speaks of the unfitness for office. You will read treatises that deal with impeachment because it's not an occurrence that's common so we all look to what the American model is and that's been studied both in 1917 and that's been studied in 1975 and we've seen how other states treat that. That and abuse of public trust at the end don't

necessarily violate what we might say is law or the Penal Code, but they do violate what was set forth in the Texas Constitution which doesn't require threshold for impeachment.

DUTTON: And finally, have you referred those violations of the law to any law enforcement?

MURR: The expectation is the committee in due course always does that.

DUTTON: But you haven't done that at this point?

MURR: We haven't done that yet, still have subpoenas out, sir.

### **PARLIAMENTARY INQUIRY**

REPRESENTATIVE SCHOFIELD: I have requested to speak against the motion. Will I be recognized to do so?

CHAIR (C.J. Harris in the chair): Yes. You're on the list Mr. Schofield.

### **HR 2377 - REMARKS**

REPRESENTATIVE DUTTON: Mr. Smithee and I have been here—this is our twentieth term. Like most people here or everybody here, we have not—I don't know, Mr. Craddick or Chair Thompson may have been through this before—but this is the first time we've ever done this. And we are asked to do something that just doesn't happen very often, but we are asked to do it almost in the dead of night. One of the things I do when I practice law is that I realize that what the prosecutor does first, in any kind of proceeding, is they always make the jury kind of mad at my client. So that whenever they are rendering a verdict it is going to be more about—sometimes about—being mad at the person than what the person actually did or didn't do for that matter.

Today, you are going to be asked to vote on the board and you got three choices. You've got present, not voting, aye, and no. That's generally what we use for voting on bills—where we decide that well, if you like a bill, you vote aye. If you don't like a bill, you vote nay and sometimes you vote present, not voting. And admittedly, sometimes you vote based on who the author is or isn't and I recognize that. We all have been guilty of doing that. But today you are asked to vote, not just the way you would vote on a bill or against a bill, you are asked to—there is a little bit of an increased standard. I admit to you that Mr. Murr told me that at some point in his closing he is going to help you understand what that hurdle is that you have to get over before you make a vote either aye or nay. Because in a proceeding like this, one of the things you want to do is you want to make sure that you are not voting based on whether you are mad at the person.

Now, I don't want this to be partisan either. The election was held back in November and so it was decided. I suspect that most of the democrats in here didn't vote for General Paxton, like I didn't. I suspect that most of the republicans in here did vote, but that's not what this vote is about today. It's not having the election all over again. This is whether or not you believe that General Paxton ought to be transferred over to the senate—his policies and practices ought to be transferred over to the senate—to make a determination as to whether or not he



ought to be impeached. That ought to be a pretty high standard for us. That ought to be a pretty high standard and it ought to be a standard that's higher than our politics. Because if we just base it on politics, all the democrats would vote aye and all the republicans would vote no. But I suspect that that's not the way it is going to happen here.

For me, I am speaking on this bill because I intend to vote a white light. I intend to vote a white light, not because I don't believe General Paxton is guilty, not because I don't believe he is innocent. But I do believe that the processes you've heard from my good friend Chairman Smithee on down—that the process ought to be such that we are convinced that going forward is the best thing for this house to do. We ought to do it absent any emotions or emotional feelings about General Paxton. That's not what this is about. If it was about that, I would go to my seat—and if it was just based on emotions—I'd vote to kick General Paxton out today. He wouldn't have to go to the senate, we can just do it from the house and let him be gone. But I don't think that's what we ought to do, members, I think we ought to pay attention to this very closely. Because what we are doing is not only to General Paxton, but it's doing it to the citizens in the State of Texas because they voted for General Paxton. I didn't, like I told you, but the citizens of Texas voted for General Paxton. I think we ought to honor that. At least to the extent that we are convinced that General Paxton abused his office to the point that we ought to be able to go to the senate side and vote for the impeachment of General Paxton.

Now, I will tell you that this is not a difficult decision for me because I never get to the point of whether General Paxton is innocent or guilty. I don't do that. I do this because the process by which we are getting this done seems to be abbreviated to the point that it just encroaches on due process. I believe everybody ought to respect the due process rights of everybody here, everybody in their district, and every Texan ought to be afforded their due process rights. There was a time in my history and in the history of Black people in this country and in this state that we didn't get due process. Sometimes they found us guilty and then they had the trial. I don't think that's what we ought to do today. I don't think we ought to decide to find General Paxton violated anything without the due process rights being protected. So Mr. Speaker and members, I would ask you to at least pay attention to your vote. This is not, like I said, voting on a bill.

REPRESENTATIVE CAIN: Mr. Dutton, you are discussing the determination of guilt or innocence. Do you believe that is something this body is supposed to determine, as the house?

DUTTON: Not really. We are not supposed to be determining guilt or innocence. We are supposed to be determining whether there is probable cause to believe that General Paxton is the person who committed whatever it is they said he committed. That's what we are supposed to be doing.

CAIN: Okay. You are discussing wanting to hear more evidence and things. Do you believe that is also something the house does or is that the responsibility of the senate?

DUTTON: Well, I think there ought to be a standard here, Chairman Cain, and then there's an even higher standard when it gets to the senate. Because I believe that in order for us—you've heard the expression that in Texas, you could indict a ham sandwich. And that's because, you know, you're right, the limit of evidence that a person has to have—the prosecutor has to have—in order to perfect or get an indictment which is why sometimes we end up challenging the indictment. Sometimes we win at that because the indictment is so full of holes. That's what I think this is, I think there are holes here.

CAIN: Thank you, sir.

REPRESENTATIVE GEREN: Mr. Dutton, one of the complaints had been that the paperwork was put on the desk only two days ago. I understand that's a short period of time, but in less than an hour after the papers were put on the desk are you aware that the attorney general himself called members of this house while they were sitting at their desk and threatened them?

DUTTON: I was not advised of that until I heard you say that.

GEREN: God bless the poor senators. I don't know how long it will be, if this passes, that they're going to have to put up with that same intimidation tactics from a man that does not deserve to be in office.

DUTTON: Well, I understand what you're saying, Charlie, and I would be on your side.

REPRESENTATIVE CANALES: Mr. Dutton, is your position that the process is flawed because the attorney general wasn't afforded due process? We've heard earlier that this is similar to a grand jury proceeding, so in that context, what is it about this process that you believe is so flawed?

DUTTON: Well, I don't believe that we've had the full—I mean, if you're convinced that the evidence. If I asked you what is the evidence that exists in your mind right now that General Paxton, more likely than not, committed a crime?

CANALES: That's not my question, Mr. Dutton. My question is what is the problem? You said the process is flawed and I'm asking you—attorney to attorney, because I've been practicing for almost 20 years myself—what is it that you think is flawed?

DUTTON: I'm not convinced. I'm not convinced that we ought to go forward. That's what's flawed.

CANALES: Okay, but then it's not the process, you're just not convinced.

DUTTON: I'm not convinced. I don't have enough evidence that tells me that he did anything.

CANALES: You're not convinced, but that's not answering the question that the process is flawed. You just don't believe that they presented enough evidence then.

DUTTON: Sir, that's an argument that I can make to you that if the process wasn't flawed I would have enough evidence.

CANALES: In a grand jury proceeding—you were talking earlier with Mr. Smithee about grand juries calling witnesses. I can tell you I've represented thousands of clients and I can't even count on one hand how many of my clients have ever been asked to go testify before a grand jury. That is not common practice—it's possible—but it's not common practice, is it?

REPRESENTATIVE SCHOFIELD: It is a great sense of concern for this house that I rise in opposition to this rushed motion to impeach a statewide officer elected by the people of Texas. Like most members of the house, and like virtually all of the 30 million people in Texas, I began this week with no idea that the house was considering impeaching the attorney general. Now, here at the end of the week we are preparing to remove him from office before the day is out. There is no need to rush to judgment. Impeachment in Texas is not just rare—it's virtually unique. Only twice in the history of our state have we impeached and elected official. The most recent being half a century ago. Despite the colorful history of public officials in Texas, only twice has this house determined that their conduct rose to the level where they should be removed from office. And only twice more did the house conduct proceedings that ended without impeaching the official. The process we are conducting today is unprecedented in the history of Texas. Every other impeachment ever conducted by this house included several public hearings in committee with dozens of witnesses. By the time we take the exceedingly rare step of moving to impeach a public official the entire state should be talking about it and should be outraged. Process is not just an esoteric concept that lawyers insist on. It's how we guarantee all of us have rights. In an impeachment the conclusion isn't the only thing that matters. If we are going to remove a statewide elected official elected by the people then those people have a right to be included in the process every step of the way so they can draw the conclusion along with us. We all know that in any argument, people accept the conclusion or the end result better when you lay out the facts of a case and let them reach the conclusion rather than just telling them that is how it is.

Historically, as you have heard, our impeachment proceedings have been even handed, including the right of the respondent to question witnesses. The two successful impeachments of Governor James Ferguson in 1917 and Judge O.P. Corillo in 1975 were conducted with open public hearings and cross-examination of witnesses by both sides. When Judge Corillo was not given subpoena power most of the witnesses he requested were in fact subpoenaed. The Corillo impeachment hearings were held over two months in May through July of 1975, including 21 meetings where the committee heard from 32 witnesses. In 1929, the house considered a resolution to impeach Land Commissioner James Robison. Our process this week is so rushed that I didn't have time to fully research the history of those proceedings, but the hearings in the Robison matter were apparently held before the entire house sitting as a Committee of the Whole with counsel for both sides addressing the house and over three dozen witnesses testifying where you could see them directly if you remember of the house. That proceeding ended with the house deciding not to impeach. Similarly, the impeachment proceedings of Governor Ferguson were conducted by the entire house as a Committee of the Whole. The governor was allowed to attend the

hearings and be represented by counsel who was allowed to participate. The house heard from 39 witnesses, including the governor. In the Corillo matter, the members of the house knew about the investigation for months before it came to the floor. The investigation began in May. The committee report was signed on July 17 and the house considered the matter on August 4, not two days after hearing that impeachment was a possibility. In the Ferguson case, the first resolution of investigation was introduced on February 14. Hearings began on March 7 and the house finally voted on articles of impeachment on August 24. The investigation on Land Commissioner Robison began in public in January. The house took up the impeachment on June 10.

Contrast those proceedings with those in which we are currently engaged. This current process was done in secret, so much so that most members of the house did not even know the impeachment of the attorney general was being considered until at most a couple of days before the articles of impeachment were filed this week. There was no public testimony, no chance for the public—or even members of the house—to learn about the allegation and look the witnesses in the eye. There's a reason why we have the concept of hearsay. Testimony given outside of court where you can't see what the witness is saying and you can't judge his demeanor is considered less credible than when you can look the witness right in the eye. Not just the entire house, but the public should be aware of the investigation and of the possibility that it might result in impeachment. There is no cause to sneak up on the public with the removal of a statewide elected official. It reflects poorly on the house when we suddenly spring an impeachment on the public that they knew nothing about, much less had the ability to draw their own conclusions upon seeing the evidence play out in public hearings. Instead, all we have is the transcript of a meeting—I can't even call it a hearing since no witnesses were heard—in which the committee staff briefed the committee on what the staff had discovered in their investigation. In no court anywhere would that be considered evidence. Not a single witness testified to the committee and no report was issued. We are simply being handed a transcript of the staff's conversation with the committee and being asked to vote to remove a statewide office holder who was elected by the people.

I want to make it very clear, as Mr. Smithee did earlier, that I am not blaming the committee for this process. The committee is made up of five members—five of our most able and honest members. I've dealt with most of them on legislative matters in the past and can state, without reservation, that I trust the word of the members that I've dealt with. My concern is with us as a house. I am gravely concerned that we let the matter of former Representative Bryan Slaton serve as a precedent and leave us with the impression that the committee goes off and writes a report, and then we all just read a copy and ratify it, thereby removing someone from office to which the public has entrusted them. In the Slaton case, there was a very good reason for the hearings being conducted in secret. There was a young woman involved whose very personal business was at the center of that investigation. Moreover, she was an intern in the house entrusted to our care. That investigation was handled very delicately and very sensitively as it should have been. This case is in no way analogous to the Slaton

matter. There is nothing I am aware of in this investigation that should not have been made public all along the way so members of this house and the people of Texas could see the evidence as it was introduced and draw their conclusions along with the committee. By the time this matter reached the house floor, all the details should have been very well-known to every Texan who cared to know. There is no need to rush headlong into impeachment. There is nothing about the end of session on Monday that in any way impacts the house's ability to continue with impeachment proceedings. That was definitely stated by the Supreme Court in *Ferguson v. Maddox*.

REPRESENTATIVE HAYES: I have the honor of representing Denton County. This morning I attended a Fallen Heroes Memorial Service here at the Capitol in this very room. At the conclusion of the services, as the bagpiper played "Amazing Grace," I teared up. It framed the somber duty we are facing this afternoon. I ask for prayers, not only for me, but for my fellow members of the house that we shall be blessed with wisdom and honor on this very sad day.

I begin by recognizing the difficult and weighty undertaking of the house General Investigating Committee. However, I rise to speak against the preferring of articles of impeachment against General Paxton. My concerns include the speed at which this process is proceeding and the lack of direct evidence and first-hand testimony. As you heard, the first the members of this house knew of the investigation by the committee was on Wednesday. Then, Thursday evening, about 8 or 8:30 p.m., for the first time we were presented the articles of impeachment. Then today's proceedings commenced just 48 hours later.

There is no question that the allegations are serious, alarming, and stunning, but even those that are the guiltiest are entitled to a fair and reasonable process. It is unpersuasive to me that we can shift that to the senate when they undertake the trial. One of the founding principles of our system of government are checks and balances. At this stage of the process, the house is the initial check. I fail to understand the urgency of proceeding at breakneck speed. I implore my fellow members to slow the roll. While rarely wise for a defendant to appear before a grand jury—and as you heard from Mr. Canales, especially when serious criminal charges are pending—General Paxton's press release yesterday said that he wanted the opportunity to appear before us. Quite frankly, that opportunity should have been afforded at the committee level. While totally ill-advised, that opportunity should be afforded to him. If not to him directly, then to his attorneys.

I have heard from many of my friends and constituents during the last 48 hours as I'm sure many of you have. The speed and transparency of this process has been described in their e-mails using such words—and these are their words—as "being a political set up," "steam-rolled," "sham," "political whack job," "weaponized political prosecution," and "railroaded." These are not my words, but the words of concerned citizens. Our citizens are concerned. They want fairness. Members, this process is important. If impeached, General Paxton will be suspended as attorney general, and a replacement will be appointed by the governor. Before we remove someone from their office and duties, let us be the deliberative assembly that we are. Slow the roll. Let us review the witness

statements, hear witnesses, and review documents. I thank you for your consideration. And members, I ask that you consider white-lighting your vote to register protest to the process. We can come back another day.

REPRESENTATIVE LEACH: Members, I did not plan to speak today. I didn't want to speak today, but I felt compelled to stand in front of you as we approach this historic vote with a few words. This morning I woke up and in preparation for the vote was, like many of you, reviewing and reading and considering all of the messages from our constituents from people all across this state as to how they would wish us to vote today. Many messages of prayer for us—for me and for you. On behalf of the entire Texas House, for those of you here today and for those tuning in, we thank you for voicing your opinions to us. They're valuable to us. This is your house and your voice here matters.

This morning, I received a message from one dear friend—and a former colleague here in the Texas House, David Simpson. David Simpson is no stranger to this house, he's a true friend to the State of Texas and he is an unquestioned warrior for the conservative cause. David is actually here in the chamber today—just off the chamber. I hope you get an opportunity, if you haven't seen him in a while, to go say hi and to hug his neck. And if you've never met him, go meet him. You've each received at your desk a copy of the statement from Representative Simpson. I encourage you to read it and I want all Texans to hear his words as well, and so all I'm going to do simply today is to read his words into the journal for the record. This is Representative Simpson's "Honor and Humility. Where are they?"

"Human life is sacred, but it is not fair. As image bearers of God and the crown of God's creation, humans from every tribe and tongue have intrinsic worth, dignity, and responsibility. That makes humanity unique. It also compels us to strive to see that all humans are treated equally before the law. The fact remains that we are not equal in power, intellect, experience, and opportunity. Nor do we use what we have equally. Some achieve great notoriety; some live in oblivion. Some appear to do great good and some great evil. Most of us are a mixture.

"We all at times are in positions of power over those who are weaker than us, those not as quick, and those not as experienced. That is when our principles are tested—as parents, teachers, employers, police, pastors, and judges. Honor and humility mark those who refrain from using power over another unnecessarily. They impel us to forgive and forget injury to ourselves and seek to move forward. Oftentimes though, honor and humility forsake us. Pride, self-righteousness, and revenge can overwhelm us. Before we know it we can abuse our powers over children, students, employees, parishioners, and citizens. Sometimes though, a proper and legitimate use of power is neglected and those under our care and jurisdiction suffer from not having their irresponsible behavior exposed and corrected.

"Recent actions in the Texas House remind us of the importance of these principles. When Representative Andrew Murr, chairman of the house General Investigating Committee laid out the resolution to expel Bryan Slaton from the house, it was accompanied with humility, sorrow, and grief. I had supported

Slaton's election, but could not condone his behavior and the abuse of power in office. I am both saddened and heartened, too, that Chairman Murr and the Committee on General Investigating is called for the impeachment of Attorney General Ken Paxton. He appears to show little or no contrition for scandalous behavior while in office. He is unwilling to resign, but he is asking the legislature (ultimately us, as taxpayers) to fund a \$3.3 million settlement for a wrongful termination lawsuit brought against him by whistleblowers for abuse of power and persistent misdeeds after being elected. Republican leaders and loyalists are attacking Speaker Phelan with ad hominem instead of dealing with the fact that our attorney general has asked the legislature to appropriate funds to ameliorate his misconduct while being the highest law enforcement officer of our state. How can legislators do that with honor?

"Honor demands that those in authority use their power to try him and remove him from office, not out of vindictiveness, nor to seek to gain political advantage, but out of compunction; not from condescension, but in humility believing that with the grace of God we would resign if we fell into the same circumstances and we betrayed those we are sworn to serve. May God help us to pass the test that is before us—to proceed not only with honor and humility; to despise partisanship and politics and uphold integrity both as office holders and citizens. May the members of the Texas House and senate imitate Representative Crockett, who while in office in Tennessee said, 'I have always supported measures and principles and not men. I have acted fearlessly and independently, and I never will regret my course. I would rather be politically buried than to be hypocritically immortalized.'" David Simpson, May 27, 2023, Avinger, Texas.

(Speaker in the chair)

CANALES: I also had no intention of speaking today, but the reality is I've heard too many disingenuous statements. I cannot sit in the back as a practicing attorney of almost 20 years and watch members weave different concepts together to misguide you and the public.

Let's start with Representative Smithee talking about hearsay, and hearsay within hearsay. Well, the rules of evidence provide many exceptions where hearsay is admissible. Hearsay is never excluded from an investigation and that's what this is. This was an investigation. So if they heard hearsay or hearsay within hearsay, that rule doesn't apply to investigations. You've also heard that we're somewhat like a grand jury and probable cause is what we're supposed to be looking for. That's one of the lowest thresholds. You've heard Mr. Dutton say a grand jury could indict a ham sandwich. Well, that's unfortunately how our legal system works. There's a threshold to end up sending someone to trial is relatively low. You also heard that the system or the methodology by which we got here was not open. Well, I don't know about you, but I knew it was happening. I actually went and sat in the hearing. So the members that got up here and complained that they didn't know, perhaps weren't listening. Perhaps they were meeting with some lobbyist somewhere, but I sat and watched the hearing. I sat and listened to it and I began to count the felonies. I ran out of fingers and toes.

What I'll tell you is, you keep hearing why now and why this time. Well, there's never a wrong time to do the right thing. And today, I stand before you to tell you that the investigation was carried out much like any other investigation that I have ever seen as a defense attorney of almost 20 years. Rarely, if ever, in my entire career have I ever had one single client invited to speak to the grand jury. Never. It doesn't happen. If it does, it's extremely rare. Never do you ever see the witnesses all brought before the grand jury. Generally, the DA lays it out, just like Mr. Murr did. That's how it works. In fact, everything that I have seen in this process is almost exactly like I've seen in investigation, like I've seen a grand jury, and like I've seen things conducted in the legal world that I have lived in for almost 20 years.

You've heard that there were no witnesses. There were dozens upon dozens of witnesses. They were spoken to. You heard they weren't under oath—Mr. Murr told you some of them are under oath. Some of them weren't under oath, but there were witnesses upon witnesses. You will leave this chamber today knowing one thing that you will have to do for the rest of your life—look in the mirror and ask yourself after hearing all these things, did you do the right thing? Did you do the right thing or did you stand here and put politics above justice and morality? You heard Mr. Smithee talk about my father, that he introduced impeachment resolutions. Well, by God he was a democrat and he impeached a democratic district judge. This is not about politics, this is about justice. Maybe justice delayed is justice denied. Well, the citizens of Texas have been denied justice for way too long. It is this body's obligation and it is within our power.

You also heard that this has all been a secret. Well, if you read the rules you'd have noticed that we put it in the rules this session. That we have the power to investigate and bring the articles of impeachment. That was on January 10. Right there in the rule book. I could read them to you, but I can't make you understand them. The reality is this, members: We have a decision to make here today and we listened to our colleagues, a bipartisan committee that sat and listened to hours of testimony, that held investigations since March, and that come before you. Members of the highest integrity, Representative Murr, Representative A. Johnson, Representative Longoria, Representative Spiller. I've never been lied to by one of them once. In fact, I hold them to the highest regard. I tell you that I have faith in them and I have faith in you. Fear not politics, fear corruption. Vote yes.

REPRESENTATIVE CLARDY: It's my intention, I want you to know, to vote against the resolution for the impeachment of General Paxton. I want to explain why. I think it's important for the body to know how I come to this conclusion. Like many of you, I have not come to it lightly and I have come to it in a bit of a hurry because we've only had 72 hours to think about this. If you'd asked me last Saturday, what do you think you'll be doing next Saturday? I promise you one thing that would have not been on that list is engaging in an impeachment proceeding against Attorney General Paxton. But yet, here we are.



You know usually I stand before you as a fellow member of the Texas House of Representatives. Today, I stand before you as a grand juror, just like you're grand jurors. And we're being asked to make a decision that would result in the removal of a recently reelected constitutional officer. I want to say this as a member who probably has tried at least as many or more jury trials as any member in this chamber or anybody in this gallery, I would probably say. Because of that, I am an absolute staunch supporter and absolute believer in the Fifth and the Seventh Amendments, and our jury system, and the roles of jurors. And this process you and I are about to engage in, it is our responsibility to sift through the evidence, to judge the character of the witnesses. That's why our jury system works. That is why it is so important that we do this.

When I look at what we are about to do, I am reminded with the presentation. Let me say this about our colleagues who served on the house General Investigating Committee. They have done yeoman's work. They have worked hard. They are diligent, honorable members, and one of those is my good friend, David Spiller. He opened today. He made a comment, "There is sufficient evidence for further legal proceedings." Members, I will submit to you that there is no evidence for future legal proceedings based upon the record here today. I am not saying we could not have gotten there, but we are where we are now with what we have. It is a fact that this is predicated as Mr. Smithee said hearsay upon hearsay upon hearsay. Our members and colleagues said, "Here is what we were told in a meeting." And yes, I did watch the video. Yes, I have read the transcript, but what I saw were the backs of people's heads telling our members this is what we heard from somebody else that we talked to. To my knowledge none of whom were under oath, nor were they subject to cross-examination. A very important part of the legal process—the crucible by which we get to the truth in our courts. That's important to us, members. We have got to be the ones who gave the credibility and the strength of the witness. I am telling you here today, there is no witness. There is no evidence before us that's competent in court of law that would be admissible in that court.

This isn't just about now. This isn't just about what we do here today. This is not even about General Paxton. The day is going to come, and quite soon I think, that many of us may move from this chamber over to the Texas State Cemetery in a decade or two or three or four decades. Something will come up again in the future of Texas. They will say, "What should we do? How do we handle this?" And we will do what we have done here, albeit, in a very rushed fashion, go back in history and look: How do we deal with impeachment? We haven't done this in 50 years. That's been the pattern, it seems. We will get into that and they will dig up this record to undertake this effort.

I want you to remember this members, because we have all been through this last week. This came up 72 hours ago during the busiest week of the session. We are hearing this on three days notice on the Saturday of a three-day weekend—Memorial Day weekend—where we should be recognizing the members for giving their lives in service to our country, but instead we are here and then we sine die in two days. We are on day 138 of the 140-day session. To do that now just seems wrong. I will tell you if they look back on this record and

we act on the record we have before us, I may be rolling over in that grave because I will be embarrassed and I will be disappointed by the process and the rush to judgment that we seem to be hurling towards and engaging in. I hope future houses will disregard the proceedings we are setting here today and that they look back and say, "You know, we do not know what we are going to do. But we are not going to do that. We are not going to rush this thing through. We are going to provide due process. We are going to have an operation of law. We are going to hear real evidence. We are better than this. We owe Texas more than this." Those that will come after us and sit in these very chairs—that will come after us, in the house that we all love—to set a better standard and to set a better record we are all proud of when we act. I urge you to join me in voting against the resolution for impeachment of Attorney General Paxton.

REPRESENTATIVE TOTH: Several years ago, Montgomery County had three elected officials who were accused of violating the Texas Open Meetings Act. A special prosecutor was appointed and a grand jury was seated. I received a call shortly thereafter from the special prosecutor asking me to appear as a witness before the grand jury. I asked him if I was to testify before the grand jury, and he said I was. I said, "Isn't this unprecedented to have people involved in the case be direct testimony before the grand jury, and allow them to ask us questions?" He said, "Steve, you got to understand something. We may usurp the will of the voters by removing three members of this court. We have to be absolutely sure that they have access to firsthand evidence."

Here we are in the Texas House being asked to potentially usurp the will of Texas voters based on no direct evidence by witnesses who were properly deposed and that were never sworn in. This has been nothing but hearsay. We heard that a document—a 340-page document—was removed from the Texas Office of the Attorney General's site, yet if you Google search it right now, you can find that document on that site. Fact—we heard that an OAG opinion had been issued about foreclosures of property. No such opinion exists. That was nothing more than a letter of guidance from the OAG. There is a huge difference, and we all know that. I am not commenting on Mr. Paxton's guilt or innocence, rather the lack of credible process that has gone on today. Members, we are establishing a precedent for actions of the future. All the testimony by this committee and members will be placed in the House Journal for future generations. By moving forward without proper guardrails on the initial removal of a statewide official sets Texas on a dangerous path. I ask you to tap the brakes. Let's make sure we do this the right way and not the wrong way. Please vote no.

REPRESENTATIVE MURR: Members, Mr. Paxton brought this matter to us. Let me repeat that. Mr. Paxton brought this matter to us. In February, after signing a settlement agreement that stopped the litigation process in a whistleblower lawsuit brought against him by some of the highest ranked individuals in the Office of the Attorney General, Mr. Paxton came to this body and testified before the Appropriations Subcommittee. He asked the legislature to spend millions of dollars to settle his lawsuit without sharing any facts about what had happened. Millions of taxpayer dollars—\$3.3 million. The General Investigating Committee retained highly qualified attorneys and investigators to learn what happened.

Following months of work, including interviews with every whistleblower and numerous fact-witnesses, the committee's attorneys presented detailed, fact-specific information and evidence to the committee in a public hearing. That presentation is publicly available in both video and transcript form. Most of you have taken the time and focus to carefully review that information and for that, I thank you.

The evidence is substantial. It is alarming and unnerving. When we asked our attorneys and our investigators—who have expert-level experience in white-collar crime and public-integrity offenses, but approach this with no mind game other than to gather evidence—we ask them if evidence showed that the laws had been broken and the public trust violated, and they said, unequivocally yes. The General Investigating Committee also independently reached the same conclusion and unanimously adopted the articles of impeachment that you have before you today. We take this role solemnly, seriously, and with great humility. We will not tolerate corruption, bribery, abuse of office, retaliation, and all the related charges that have been presented to you. I am confident that you cannot tolerate, let alone defend, these most serious and grave official wrongs.

Now, we've provided you with a detailed memo regarding the process of impeachment, so I will highlight some of those points. Impeachment is not a criminal process. The primary purpose of impeachment is to protect the state, not to punish the individual. Impeachment in the house is analogous, or similar to, a criminal indictment and must be followed by a trial in the senate. A trial that every person interviewed has agreed to attend and testify under oath. The house acts similarly to a grand jury. You are not being asked to decide facts or law. That is the role of the senate. You are only deciding whether there is sufficient evidence to justify further legal proceedings.

A few members have voiced their concerns about process and we've answered a lot of questions about that. References have been made regarding how impeachments unfolded in 1917 and 1975. Those matters were worked out under different rules of the house than we have today. Those matters then are different precedent than we have today. Today, we have more detailed rules that makes the committee structure the workhorse and the fact-gathering guidepost for getting this done. The General Investigating Committee has followed the committee rules, the House Rules, and the Constitution. All evidence was gathered in accordance with these rules and is consistent with investigations of this kind. These same members that raise concerns about process though, have not raised concerns about the evidence, the facts. And while Mr. Paxton and his friends have spent time attacking the process, engaging in name-calling, and making political and personal threats to members of this body, he has yet to raise concerns about the evidence against him. Even in his press conference yesterday, neither Mr. Paxton nor any person with personal knowledge has denied any allegation in any article before you. Of course, they get to do that—at trial in the senate.

Members, as an attorney, I've always told jurors that we judge people by what they do, not by their name or their title. I have always been a law-and-order public servant because I believe that having a government free of corruption in

America is the only thing that separates us from a third-world country. Terms like integrity, honesty, and doing the right thing matter. They matter to me and I know that they matter to you. Members, we took an oath to preserve, protect, and defend the Constitution and laws of the United States and of this state, so help us God. That's the same oath that Mr. Paxton took as attorney general. The evidence presented to you is compelling and is more than sufficient to justify going to trial. Putting politics aside, this decision is clear. If what was expected to impeach was a full trial in the house, the Constitution would provide that, but the trial is in the senate. You are not deciding facts or law today. You are simply deciding if this matter may proceed to trial. You are simply deciding that there are sufficient facts to go to trial.

Members, I respectfully ask that you approve these articles.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Oliverson on motion of Goldman.

### **HR 2377 - (consideration continued)**

**HR 2377** was adopted by (Record 2191): 121 Yeas, 23 Nays, 2 Present, not voting.

Yeas — Mr. Speaker(C); Allen; Allison; Anchía; Ashby; Bailes; Bell, K.; Bernal; Bhojani; Bonnen; Bowers; Bryant; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Campos; Canales; Capriglione; Cole; Collier; Cook; Cortez; Darby; Davis; Dean; DeAyala; Flores; Frank; Frazier; Gámez; Garcia; Gates; Gerdes; Geren; Gervin-Hawkins; Goldman; González, J.; González, M.; Goodwin; Guerra; Guillen; Harris, C.J.; Hefner; Hernandez; Hinojosa; Holland; Howard; Hull; Hunter; Jetton; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; Jones, V.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lalani; Lambert; Landgraf; Leach; Longoria; Lopez, J.; Lopez, R.; Lozano; Lujan; Manuel; Martinez; Martinez Fischer; Metcalf; Meyer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Murr; Neave Criado; Noble; Ordaz; Orr; Ortega; Patterson; Perez; Plesa; Ramos; Raney; Raymond; Reynolds; Rogers; Romero; Rose; Rosenthal; Shaheen; Sherman; Shine; Smith; Spiller; Stucky; Talarico; Tepper; Thimesch; Thompson, S.; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Zwiener.

Nays — Anderson; Bell, C.; Clardy; Craddick; Cunningham; Dorazio; Harless; Harris, C.E.; Harrison; Isaac; Leo-Wilson; Morrison; Paul; Price; Schaefer; Schatzline; Schofield; Slawson; Smithee; Swanson; Thompson, E.; Tinderholt; Toth.

Present, not voting — Dutton; Hayes.

Absent, Excused — Oliverson.

Absent — Herrero; Thierry.

### STATEMENTS OF VOTE

When Record No. 2191 was taken, I was shown voting yes on all proposed articles of impeachment. I would have voted no on Articles XII, XIII, and XIV.

Cook

When Record No. 2191 was taken, I was absent because of important business in the district. I would have voted yes on all proposed articles of impeachment.

Herrero

When Record No. 2191 was taken, I was in the house but away from my desk. I intended to vote yes.

Thierry

### REASONS FOR VOTE

Representative Leo-Wilson submitted the following reason for vote to be printed in the journal:

I want to make it clear that my no vote today on impeachment does not in any way overlook or ignore the gravity and seriousness of the 20 articles of impeachment against AG Ken Paxton. I have grave concerns about the abuse of his office and the obstruction of justice contained in those 20 counts. Having knowledge of most of what was in those 20 articles prior to Ken Paxton's 2022 reelection, I did not support him as our party's nominee. Further, I heard no denial regarding those allegations from Ken Paxton himself. I was very much hoping that the electorate would not vote for, what I truly believed to be, another corrupt politician.

My no vote today is a no vote against the process by which this impeachment is being done. My first and foremost duty is to defend the Texas and U.S. Constitutions. The rule of law is my plumb line. At stake, is the overturning of an election, by the people, of a statewide office holder.

The process should not be determined by a handful of representatives under the advice of hired staff. I have asked questions regarding this process that have been met with very few concrete answers on how this was all determined. Until 38 hours ago, it was unbeknownst to the majority of the members that this investigation had been taking place since March. If we are to act in this role as a Grand Jury, I believe we should have had access to the prosecutor and witnesses. I have asked the question repeatedly, have the witnesses been sworn in under oath? As of yet, that simple question has not been answered. When asked about direct evidence, I was told there would not be any for consideration, and that we were to rely on the witnesses answers to questions that were asked by hired staff. The impeachment contains 20 articles, and yet there was an allotted only four hours to substantiate all 20 of these. An hour of that time was consumed by opening and closing statements. The transcript was our only evidence. When public trust is at stake, I believe a higher burden is required.

I do not have confidence in the procedures set before us today. I have had no time to properly prepare or to clearly understand all 20 articles of impeachment. This is a departure from what has been done previously. The law clearly allows the full house to compel witnesses, but this was not done in this case. Further, why must the house rush this process when the weight of this decision is enormous?

Representative Lozano submitted the following reason for vote to be printed in the journal:

This vote represents my belief that a trial in the Texas Senate is justified in the matter of impeachment concerning Attorney General Paxton.

In response to Attorney General Paxton's request to have taxpayers pay \$3.3 million to settle a lawsuit filed against him, the Texas House General Investigating Committee began investigating.

It is my sincere belief that the process should have taken a slower pace. I also believe that Attorney General Paxton should have formally been invited along with his legal counsel to rebut the allegations made in the General Investigating Committee. Under the rules adopted, we are not allowed to have a trial in the House of Representatives. We consider the committee recommendation and determine if there is enough information to send this to the Texas Senate for a trial which will allow the examination and cross examination of witnesses.

AG Paxton has been a fierce defender of our Texas sovereignty and has continuously sued the federal government in the defense of our state. This is not a reflection on his valiant defense of our conservative principles.

However, the investigation revealed disturbing information which I believe the people of Texas deserve to have thoroughly addressed in a comprehensive trial in the Texas Senate.

Representative E. Morales submitted the following reason for vote to be printed in the journal:

During the impeachment proceedings, Representative Geren revealed allegations that Attorney General Paxton made threatening phone calls to members of the Texas House of Representatives and Senate to influence either their vote for impeachment or their role in acting as a juror during an impeachment trial in the Senate on **HR 2377**. Given these new and disturbing details, I respectfully request this body or the General Investigating Committee to amend the articles and formal charges against Attorney General Paxton to include abuse of power, intimidation of members of the Texas House of Representatives, and jury tampering with respect to the intimidation of the Senate.

Second, I further request an additional amendment to the formal charge document against Attorney General Paxton to include a petition for reimbursement/restitution of state taxpayer funds incurred or expended in furtherance of the violations by the acts of Attorney General Paxton. This includes, but is not limited to, the additional costs the Attorney General's Office incurred after the mass exodus of staff and employees that resulted in the agency having to hire outside legal counsel to keep up with the case load.

Finally, I did not take this vote lightly and considered all information and statements from the General Investigating Committee hearing conducted today under **HR 2377**. In addition, I reviewed the full General Investigating Committee testimony and transcript, the Memorandum from the General Investigating Committee dated May 26, 2023, a review of case law precedent and impeachment case law in the State of Texas. At the conclusion of this proceeding, I voted yes on **HR 2377** as it applies to all charges presented and stand by that vote.

Representative Vasut submitted the following reason for vote to be printed in the journal:

The question put before the house today was whether there was sufficient evidence to proceed forward with a trial in the senate: nothing more. Having reviewed the relevant record, finding the process utilized complied with the Texas Constitution and the Rules of the House, and hearing no substantive challenge to the factual accuracy of the evidence submitted either by any of my colleagues, or the attorney general himself in the materials his office delivered to me or in the press conference he conducted, I can reach only one conclusion:

there is sufficient evidence before the house that Attorney General Ken Paxton committed acts while in office that are properly the subject of impeachment and trial in the Senate under Article XV, Section 1, of the Texas Constitution.

No political consideration is relevant. My conscience compels me in this matter to vote aye.

Here I stand; I can do no other.

Speaker Phelan directed the following actions:

The chief clerk to notify the governor of the house's actions (see the addendum to the daily journal).

The Committee on General Investigating to prepare any further resolutions required by the adoption of **HR 2377**.

### **HOUSE AT EASE**

At 4:46 p.m., the chair announced that the house would stand at ease.

The chair called the house to order at 5:46 p.m.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Herrero on motion of Martinez Fischer.

**HR 2339 - ADOPTED**  
**(by Bonnen)**

The following privileged resolution was laid before the house:

**HR 2339**, Suspending the limitations on the conference committee jurisdiction for **HB 1**.

**HR 2339** was adopted by (Record 2192): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Allison; Anchía; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bernal; Bhojani; Bonnen; Bowers; Bryant; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Campos; Canales; Capriglione; Clardy; Cole; Collier; Cook; Cortez; Craddick; Cunningham; Darby; Davis; Dean; DeAyala; Dutton; Flores; Frank; Frazier; Gámez; Garcia; Gates; Geren; Gervin-Hawkins; Goldman; González, J.; González, M.; Goodwin; Guerra; Guillen; Harless; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Hernandez; Hinojosa; Holland; Howard; Hull; Hunter; Isaac; Jetton; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; Jones, V.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lalani; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lopez, R.; Lozano; Lujan; Manuel; Martinez; Martinez Fischer; Metcalf; Meyer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Noble; Ordaz; Orr; Ortega; Patterson; Paul; Perez; Plesa; Price; Ramos; Raney; Raymond; Rogers; Romero; Rose; Rosenthal; Schaefer; Schatzline; Schofield; Shaheen; Sherman; Shine; Slawson; Smith; Smithe; Spiller; Stucky; Swanson; Talarico; Tepper; Thierry; Thimesch; Thompson, E.; Thompson, S.; Tinderholt; Toth; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Zwiener.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Herrero; Oliverson.

Absent — Dorazio; Gerdes; Reynolds.

**HB 1 - CONFERENCE COMMITTEE REPORT ADOPTED**

Representative Bonnen submitted the following conference committee report on **HB 1**:

Austin, Texas, May 22, 2023

The Honorable Dan Patrick  
President of the Senate

The Honorable Dade Phelan  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Huffman  
Nichols

Bonnen  
M. González



Schwertner  
Creighton  
Kolkhorst  
On the part of the senate

Jetton  
VanDeaver  
Walle  
On the part of the house

[The official text of the conference committee report is the text contained in the Legislative Budget Board's official printing.]

#### **HR 2432 - NOTICE OF INTRODUCTION**

Pursuant to Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2432**, suspending the limitations on the conferees for **HB 3447**.

#### **HR 2433 - NOTICE OF INTRODUCTION**

Pursuant to Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2433**, suspending the limitations on the conferees for **SB 10**.

#### **HR 2436 - NOTICE OF INTRODUCTION**

Pursuant to Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2436**, suspending the limitations on the conferees for **HB 4227**.

#### **HR 2435 - NOTICE OF INTRODUCTION**

Pursuant to Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2435**, suspending the limitations on the conferees for **HB 357**.

#### **HR 2440 - NOTICE OF INTRODUCTION**

Pursuant to Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2440**, suspending the limitations on the conferees for **HB 17**.

#### **HR 2462 - NOTICE OF INTRODUCTION**

Pursuant to Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2462**, suspending the limitations on the conferees for **SB 12**.

#### **REMARKS ORDERED PRINTED**

Representative Rogers moved to print remarks between Representative Bonnen and Representatives Hinojosa and K. King on **HB 1**.

The motion prevailed. [The text of the debate was not available at the time of printing.]

Representative Bonnen moved to adopt the conference committee report on **HB 1**.

The motion to adopt the conference committee report on **HB 1** prevailed by (Record 2193): 124 Yeas, 22 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Allen; Allison; Anchía; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bernal; Bhojani; Bonnen; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Cole; Collier; Cook; Cortez; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Dutton; Frank; Frazier; Gámez; Garcia; Gates; Gerdes; Geren; Gervin-Hawkins; Goldman; González, M.; Guerra; Guillen; Harless; Harris, C.E.; Harris, C.J.; Hefner; Hernandez; Holland; Howard; Hull; Hunter; Isaac; Jetton; Johnson, A.; Jones, J.; Jones, V.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lalani; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lozano; Lujan; Manuel; Martinez; Metcalf; Meyer; Moody; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Noble; Ordaz; Orr; Ortega; Patterson; Paul; Perez; Plesa; Price; Raney; Raymond; Rogers; Romero; Rose; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Talarico; Tepper; Thierry; Thimesch; Thompson, E.; Toth; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Zwiener.

Nays — Bowers; Bryant; Campos; Davis; Flores; González, J.; Goodwin; Harrison; Hayes; Hinojosa; Johnson, J.D.; Johnson, J.E.; Lopez, R.; Martinez Fischer; Meza; Morales, C.; Ramos; Reynolds; Rosenthal; Schaefer; Sherman; Tinderholt.

Absent, Excused — Herrero; Oliverson.

Absent — Thompson, S.

The chair stated that **HB 1** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

### STATEMENT OF VOTE

When Record No. 2193 was taken, I was excused because of important business in the district. I would have voted yes on the adoption of the conference committee report on **HB 1**.

Herrero

### REASON FOR VOTE

Representative Meza submitted the following reason for vote to be printed in the journal:

I voted against **HB 1** because the conference committee report didn't provide teacher raises or increase the basic allotment, and was a poor use of our historic surplus.

### RULES SUSPENDED

Representative Bonnen moved to suspend all necessary rules to authorize a statement in the journal in lieu of the text of the conference committee report on **HB 1**.

The motion prevailed.

**HR 2340 - ADOPTED**  
**(by Bonnen)**

The following privileged resolution was laid before the house:

**HR 2340**, Suspending the limitations on the conference committee jurisdiction for **SB 30**.

**HR 2340** was adopted by (Record 2194): 138 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen; Allison; Anchía; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bernal; Bhojani; Bonnen; Bowers; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Campos; Canales; Capriglione; Clardy; Cole; Collier; Cook; Cortez; Craddick; Cunningham; Darby; Davis; Dean; DeAyala; Dorazio; Dutton; Flores; Frank; Frazier; Gámez; García; Gates; Gerdes; Geren; Gervin-Hawkins; Goldman; González, M.; Goodwin; Guerra; Guillen; Harless; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Hernandez; Hinojosa; Holland; Howard; Hull; Hunter; Isaac; Jetton; Johnson, A.; Johnson, J.E.; Jones, J.; Jones, V.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lalani; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lopez, R.; Lozano; Lujan; Manuel; Martinez; Martinez Fischer; Metcalf; Meyer; Moody; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Noble; Ordaz; Orr; Ortega; Patterson; Paul; Perez; Plesa; Price; Raney; Raymond; Reynolds; Rogers; Romero; Rose; Rosenthal; Schaefer; Schatzline; Schofield; Shaheen; Sherman; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Talarico; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Wiener.

Nays — Bryant; González, J.; Morales, C.; Ramos; Thompson, S.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Herrero; Oliverson.

Absent — Johnson, J.D.; Meza; Thierry.

**SB 30 - CONFERENCE COMMITTEE REPORT ADOPTED**

Representative Bonnen submitted the conference committee report on **SB 30**.

Representative Bonnen moved to adopt the conference committee report on **SB 30**.

The motion to adopt the conference committee report on **SB 30** prevailed by (Record 2195): 135 Yeas, 10 Nays, 1 Present, not voting.

Yeas — Allen; Allison; Anchía; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bernal; Bhojani; Bonnen; Bowers; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Campos; Canales; Capriglione; Clardy; Cole; Collier; Cook; Cortez; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Dutton; Flores; Frank; Frazier; Gámez; García; Gates; Gerdes; Geren; Gervin-Hawkins; Goldman; González, M.; Goodwin; Guerra; Guillen; Harless; Harris, C.E.;

Harris, C.J.; Hayes; Hefner; Hernandez; Hinojosa; Holland; Howard; Hull; Hunter; Isaac; Jetton; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; Jones, V.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lalani; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lopez, R.; Lozano; Lujan; Manuel; Martinez; Martinez Fischer; Metcalf; Meyer; Meza; Moody; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Noble; Ordaz; Orr; Ortega; Patterson; Paul; Perez; Plesa; Price; Raney; Raymond; Rogers; Romero; Rose; Rosenthal; Schatzline; Schofield; Shaheen; Sherman; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Talarico; Tepper; Thierry; Thimesch; Thompson, E.; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Zwiener.

Nays — Bryant; Davis; González, J.; Harrison; Morales, C.; Ramos; Reynolds; Schaefer; Tinderholt; Toth.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Herrero; Oliverson.

Absent — Thompson, S.

The chair stated that **SB 30** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

### **SB 2315 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Clardy, the house granted the request of the senate for the appointment of a Conference Committee on **SB 2315**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2315**: Clardy, chair; Button, Lambert, Raney, and Stucky.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 34).

### **ADJOURNMENT**

Representative Metcalf moved that the house adjourn until 1 p.m. tomorrow.

The motion prevailed.

The house accordingly, at 6:56 p.m., adjourned until 1 p.m. tomorrow.

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### **ADDENDUM**

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**LETTER FROM THE CHIEF CLERK  
OF THE HOUSE OF REPRESENTATIVES**

The following letter was submitted for inclusion in the journal:

The Honorable  
Greg Abbott  
Governor of Texas  
State Capitol, Room 2S.1  
Austin, Texas

Governor:

I am directed by the House of Representatives to inform you that, pursuant to its authority under Section I, Article XV, Texas Constitution, the House has this day adopted House Resolution 2377, impeaching Warren Kenneth Paxton, Attorney General of the State of Texas.

Respectfully,

/s/Stephen Brown  
Chief Clerk of the House

**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 34**

**HB 19, HB 64, HB 139, HB 198, HB 409, HB 422, HB 461, HB 527, HB 611, HB 886, HB 923, HB 969, HB 1133, HB 1163, HB 1357, HB 1597, HB 1598, HB 1649, HB 1673, HB 1710, HB 1730, HB 1759, HB 1766, HB 1903, HB 2060, HB 2187, HB 2201, HB 2259, HB 2333, HB 2488, HB 2512, HB 2555, HB 2620, HB 2626, HB 2715, HB 2741, HB 2816, HB 2839, HB 2850, HB 2878, HB 2900, HB 2975, HB 3097, HB 3159, HB 3191, HB 3207, HB 3232, HB 3235, HB 3257, HB 3335, HB 3419, HB 3469, HB 3556, HB 3603, HB 3908, HB 3981, HB 4062, HB 4106, HB 4415, HB 4456, HB 4538, HB 4550, HB 4645, HB 4660, HB 4714, HB 4758, HB 5066, HB 5178, HB 5307, HB 5309, HB 5312, HB 5316, HB 5322, HB 5332, HB 5333, HB 5334, HB 5337, HB 5340, HB 5372, HB 5373, HB 5377, HB 5386, HB 5389, HB 5414, HB 5415, HCR 26**

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

**MESSAGE FROM THE SENATE**

**SENATE CHAMBER**

Austin, Texas

Saturday, May 27, 2023

The Honorable Speaker of the House

House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 114** Vasut SPONSOR: Huffman  
In memory of Arch Hartwell Aplin Jr.

**HCR 121** Buckley SPONSOR: Creighton  
Instructing the enrolling clerk of the house to make corrections in H.B. No. 1605.

**HCR 122** Craddick SPONSOR: Hancock  
Congratulating Don Ward on his retirement as executive director of the One-Call Board of Texas.

**HCR 123** Goldman SPONSOR: Perry  
Instructing the enrolling clerk of the house to make corrections in H.B. No. 1058.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

**SB 718** (31 Yeas, 0 Nays)

**SB 1056** (31 Yeas, 0 Nays)

**SB 1070** (19 Yeas, 12 Nays)

**SB 1098** (30 Yeas, 1 Nay)

**SB 1192** (31 Yeas, 0 Nays)

**SB 1367** (29 Yeas, 2 Nays)

**SB 1376** (31 Yeas, 0 Nays)

**SB 1404** (31 Yeas, 0 Nays)

**SB 1414** (31 Yeas, 0 Nays)

**SB 1624** (30 Yeas, 1 Nay)

**SB 1929** (30 Yeas, 1 Nay)

**SB 2192** (31 Yeas, 0 Nays)

**SB 2440** (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**SB 2315**

Senate Conferees: Hughes - Chair/Birdwell/Hinojosa/Kolkhorst/Parker

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 7**

Senate Conferees: Birdwell - Chair/Blanco/Flores/King/Parker

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 4** (31 Yeas, 0 Nays)

**HB 1595** (30 Yeas, 1 Nay)

**HB 2026** (27 Yeas, 4 Nays)

**HB 2559** (31 Yeas, 0 Nays)

**HB 3059** (25 Yeas, 6 Nays)

**HJR 3** (30 Yeas, 1 Nay)

**SB 10** (31 Yeas, 0 Nays)

**SB 133** (31 Yeas, 0 Nays)

**SB 1445** (31 Yeas, 0 Nays)

**SB 1516** (31 Yeas, 0 Nays)

**SB 1893** (31 Yeas, 0 Nays)

**SB 2601** (31 Yeas, 0 Nays)

THE SENATE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

**SB 18** (19 Yeas, 12 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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**APPENDIX**

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**ENROLLED**

May 26 - HB 19, HB 64, HB 113, HB 139, HB 198, HB 409, HB 422, HB 461, HB 527, HB 611, HB 886, HB 923, HB 969, HB 1133, HB 1163, HB 1357, HB 1597, HB 1598, HB 1649, HB 1673, HB 1710, HB 1730, HB 1759, HB 1766, HB 1903, HB 2060, HB 2187, HB 2201, HB 2259, HB 2333, HB 2488, HB 2512, HB 2555, HB 2620, HB 2626, HB 2715, HB 2741, HB 2816, HB 2839, HB 2850, HB 2878, HB 2900, HB 2961, HB 2975, HB 3097, HB 3159, HB 3191, HB 3207, HB 3232, HB 3235, HB 3257, HB 3335, HB 3419, HB 3469, HB 3556, HB 3603, HB 3613, HB 3623, HB 3744, HB 3808, HB 3908, HB 3981, HB 3991, HB 4062, HB 4106, HB 4122, HB 4164, HB 4217, HB 4250, HB 4385, HB 4415, HB 4456, HB 4538, HB 4550, HB 4645, HB 4660, HB 4714, HB 4758, HB 5066, HB 5178, HB 5307, HB 5309, HB 5312, HB 5316, HB 5322, HB 5332, HB 5333, HB 5334, HB 5337, HB 5340, HB 5345, HB 5358, HB 5360, HB 5372, HB 5373, HB 5377, HB 5386, HB 5389, HB 5411, HB 5413, HB 5414, HB 5415, HCR 26

**SENT TO THE GOVERNOR**

May 26 - HB 8, HB 14, HB 25, HB 53, HB 54, HB 90, HB 181, HB 299, HB 400, HB 420, HB 471, HB 614, HB 617, HB 729, HB 755, HB 783, HB 852, HB 900, HB 968, HB 1000, HB 1034, HB 1193, HB 1217, HB 1299, HB 1337, HB 1486, HB 1527, HB 1592, HB 1603, HB 1688, HB 1696, HB 1743, HB 1905, HB 1926, HB 1968, HB 1996, HB 2019, HB 2100, HB 2102, HB 2166, HB 2188, HB 2194, HB 2313, HB 2334, HB 2442, HB 2478, HB 2495, HB 2508, HB 2616, HB 2616, HB 2658, HB 2700, HB 2738, HB 2800, HB 2879, HB 2947, HB 2951, HB 2956, HB 2965, HB 2969, HB 3045, HB 3126, HB 3130, HB 3137, HB 3144, HB 3156, HB 3224, HB 3278, HB 3310, HB 3323, HB 3361, HB 3414, HB 3436, HB 3536, HB 3645, HB 3646, HB 3708, HB 3743, HB 3798, HB 3858, HB 3929, HB 4012, HB 4034, HB 4069, HB 4082, HB 4085, HB 4219, HB 4233, HB 4246, HB 4316, HB 4337, HB 4372, HB 4375, HB 4416, HB 4417, HB 4451, HB 4494, HB 4510, HB 4520, HB 4765, HB 4765, HB 4779, HB 4835, HB 4879, HB 4932, HB 4997, HB 5010, HB 5142, HB 5202, HB 5304, HB 5314, HB 5318, HB 5320, HB 5330, HB 5339, HB 5343, HB 5349, HB 5357, HB 5365, HB 5367, HB 5369, HB 5374, HB 5379, HB 5384, HB 5385, HB 5390, HB 5391, HB 5393, HB 5395, HCR 27, HCR 29, HCR 104, HCR 105

**RECOMMENDATIONS FILED WITH THE SPEAKER**

May 26 - HB 5411, HB 5412, HB 5413, HB 5414, HB 5415